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20 ANNIVERSARY

1990-91 Budget Battle

WHAT ME WORRY?

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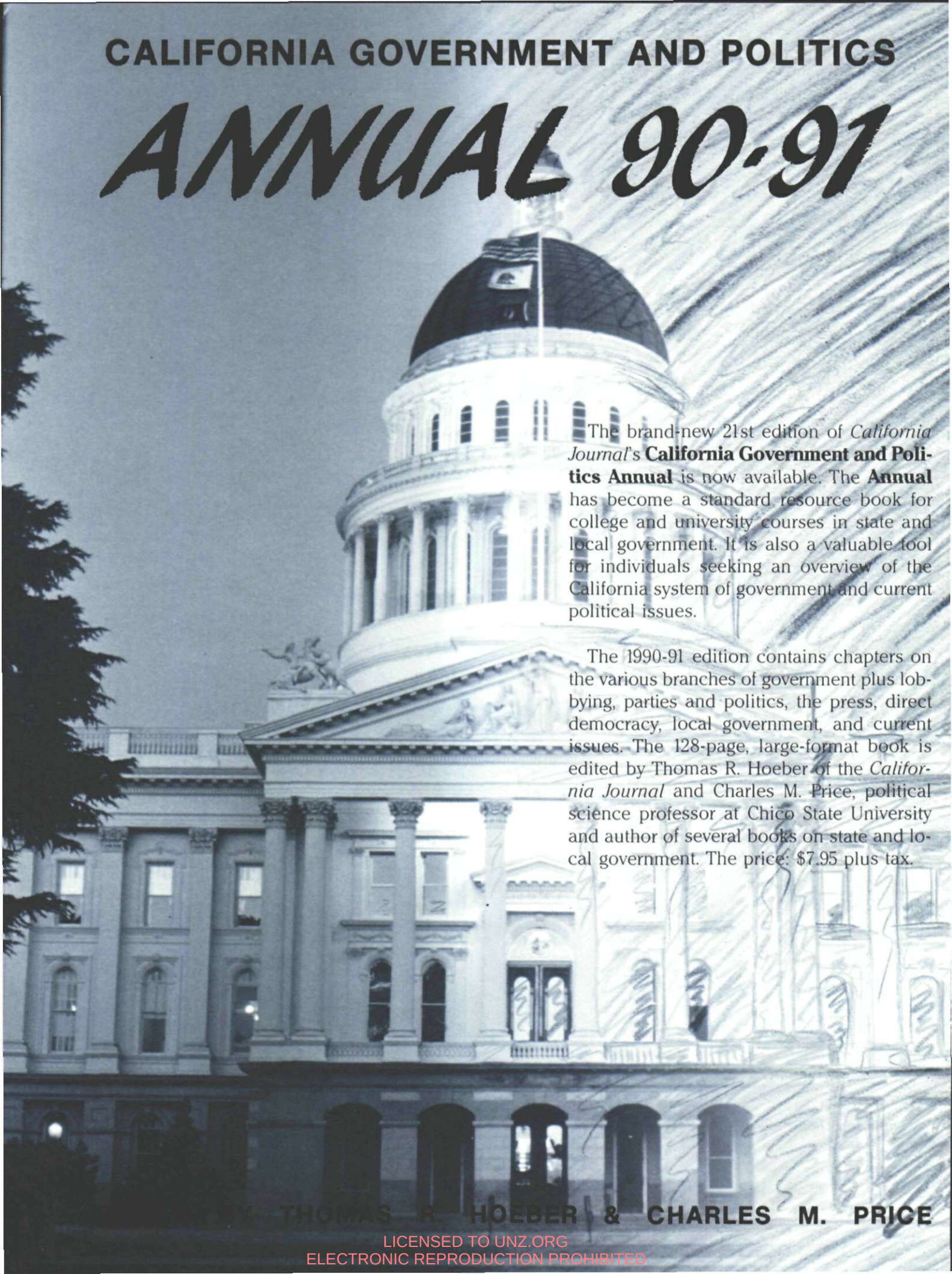

The brand-new 21st edition of *California Journal*'s **California Government and Politics Annual** is now available. The **Annual** has become a standard resource book for college and university courses in state and local government. It is also a valuable tool for individuals seeking an overview of the California system of government and current political issues.

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THOMAS R. HOEBER & CHARLES M. PRICE

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SEPTEMBER 1990
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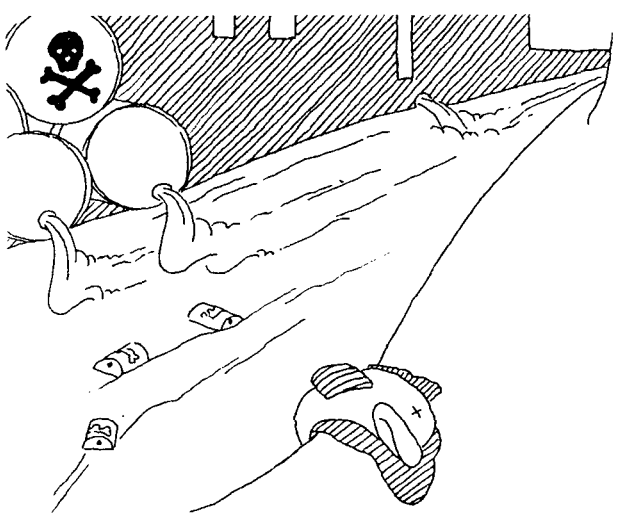

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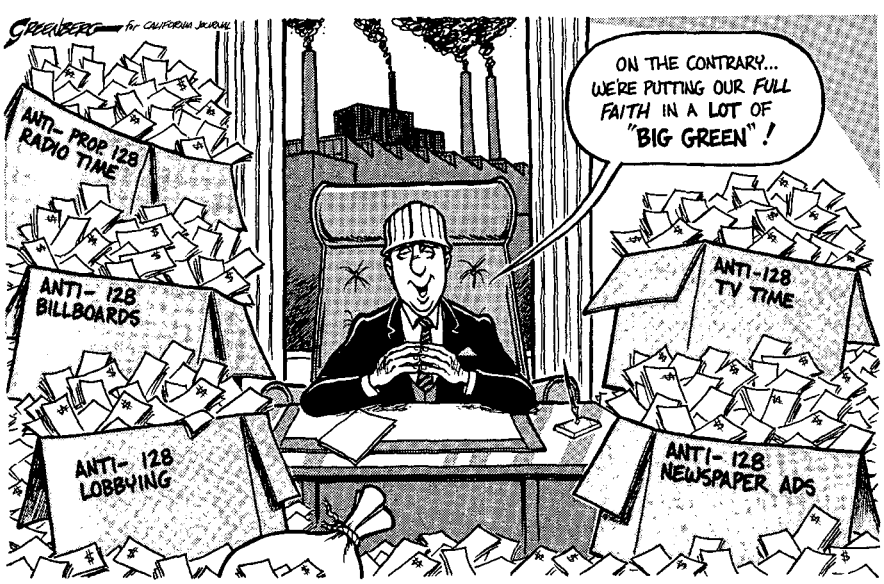
UP FRONT

Good government update. Just to keep you posted on how things are going in Sacramento, one recent tally had 90 fund-raising events scheduled for last month, a rate of about four per night. It's only coincidence, of course, that August is also the last month of the legislative session when hundreds of bills are up for consideration. Attendance at all events would have cost about $44,000. No wonder those folk couldn't get a budget out on time or bond measures to the ballot. They were too busy throwing parties.

Governor George Deukmejian threw a series of parties for the Senate, Assembly and Capitol press last month, each with the same Mediterranean theme. We're talking eastern Mediterranean, here, like shish kebab and camels. The main attraction each night was a belly dancer who worked her way around the tables enticing attendees to participate. We can't speak for members of the Legislature, but, as a group, the press corps has little rhythm. The governor, however, proved a fairly good belly dancer. It's the most animated anyone has seen him in a long time. At the end of the evening, the governor had some gracious remarks for those who had covered at least some of his 28 years in Sacramento. "We all are sincerely trying to do what's in the best interests of the people of California," he offered. It was probably a more generous assessment of the press than the press will give the departing governor. "Life will not be the same," he concluded, "Thank God."

The untimely death of Salinas Assemblyman Eric Seastrand left Republicans without a candidate in the 29th district. So, the Republican central committees from Monterey, San Luis Obispo and Santa Barbara counties met in joint session to pick a replacement nominee. Chosen for the job was Seastrand's widow, Andrea, who easily beat out a couple of other contenders. Her November victory should be easy in a district in which favors Republicans, who have 47 percent of the vote to 40 percent for Democrats.

The *National Journal* recently published a series of articles on raising campaign money in Washington. Included in the series was a list of "heavy hitters" among both Republicans and Democrats, those contributors you really want to woo when you play in the big leagues. Of the 20 Republicans listed, five were from California, with six of 20 Democrats coming from the Golden State. Republicans listed were: Donald Bren of Irvine, chairman and chief executive of the Irvine Company; Lodwrick Cook, Los Angeles, chairman and chief executive of Arco Oil; Kenneth Derr, San Francisco, chairman and chief executive of Chevron; David Murdock, Los Angeles, chairman and chief executive of Castle & Cooke food-production and marketing firm; and Alex Spanos, Stockton, chairman of the A.G. Spanos Development Company and owner of the San Diego Chargers football club. Democrats listed were: Ted Fields, Los Angeles, heir to the Marshall Fields fortune and a film studio owner; Duane Garett, a San Francisco lawyer; M. Larry Lawrence, Coronado, owner of the Hotel del Coronado; Lyn Schenck, a San Diego attorney; Walter Shorenstein, San Francisco, chairman of the Shorenstein development company; and Kenneth Ziffren, Los Angeles, an entertainment lawyer.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Okay, give it to me straight. Most of the time, a legislator's constituents are polite, even when angry. But every now and then you get a letter like the one addressed to Assemblyman Stan Statham from a voter angry because Statham supported legislation calling for 15-day waiting period on the purchase of firearms. "You sir are a real pig to have sold out a trust..." offered the letter. And, in perhaps the ultimate insult, he offered, "you are the same sort of swine [former Senator Joe] Montoya is, a man of no principles and that cannot be changed over cocktails." The writer, who did not live in Statham's district, went on to say that he would support Statham's opponent, whomever that might be. Statham wrote back that it was "kind of you to write. It isn't often that voters are as candid and tastelessly straightforward as you." He also enclosed the address of his opponent, Democrat Arlie Caudle.

Only a few years off. We got a few dates and terms wrong in our story about Stan Statham in last month's issue. Four to be precise. Here are the correct dates. Randolph Collier switched to the Democratic party in 1959, not 1962, after cross-filing was abolished

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and the Democrats had a majority in the Senate. Pauline Davis replaced her dead husband in 1952, not 1942 and she served for 24 years, not 34 years. Finally, Ray Johnson defeated Collier in 1976, not 1974. 1974 was the year he lost to Pauline Davis for the state Assembly. Devoted reader Tony Quinn of Sacramento, who has a complete set of Legislative handbooks, caught these errors.

Typo department. We recently received a copy of a page from the latest edition of the state telephone directory that includes the listings for the Governor's office, among them the listing for James W. Robinson, the governor's director of Public Affairs and Communications. Only a strategic "l" was dropped from the title, leaving Robinson with much more interesting responsibilities. We're told that the directory was recalled and the page carefully cut out of each directory before they were shipped again.

— Brent Miller, Sacramento

Republican Assembly candidate Ron Grenada has obtained some high-powered help in his bid to unseat Democrat Dominic Cortese from his 24th District seat — former congressman and unsuccessful U.S. Senate candidate Ed Zschau is serving as Grenada's campaign chairman.

We must protect the right of an infintesimal minority to make jackasses and fools out of themselves in a matter of their own choosing. We saw flag burners on the steps of the Capitol and the rafters didn't shake. — Rep. James Scheuer (D-NY)

Come across a blurb lately that's nosy, newsy or smart-alecky about California government, politics or politicians? Share it with the Journal. *We pay up to $25 for entertaining tidbits published in "Up Front." So, rush your items to Up Front, 1714 Capitol Avenue, Sacramento, CA 95814. Sorry, submissions cannot be returned.*

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ROSTRUM

Stan Statham

Concerning your article on Assemblyman Stan Statham (see "The Maverick from Modoc," *CJ*, August 1990): Naturally, a picture of my November election opponent caught my eye. At first, I wondered about the timing of such an article and wondered whether I would also get some attention.

Modoc? It has probably been some time since even Ray Narbaitz (Statham's assistant) appeared in Modoc County. In fact, the most common complaint I hear about Statham is his failure to get off I-5 to visit the far reaches of the district. He has not appeared at a candidates' night during the past three elections, preferring instead to put up a few signs, put out a few television ads, and send Narbaitz out to test the waters.

As a 14-year veteran of the Legislature and the second ranking Republican in the Assembly, Statham should be pulling his weight. Instead, he is still the same "easy rider" portrayed in a 1981 *California Journal* article. His legislative agenda for 1990 was highlighted by AB 4078 (Channel One in the schools) and AB 4367 (an exemption from conflict-of-interest laws regarding a Tehama County supervisor). The first failed in committee; the second had to be withdrawn. He changes committee assignments regularly, keeping only one for more than a term — Governmental Organization, where he has been a member for many terms. Is there is a connection between that assignment and all the Southern California racing organizations that contribute to his warchest? There certainly is no horse racing in his district.

So what do 14 years in the Assembly add up to? Expertise in raising campaign funds (which he apparently does not need or use for that purpose) and a few bills from the distant past for senior citizens and for fining drunk-drivers. The "maverick" is simply out of touch and has lost a prized endorsement — that of the California Teachers Association, now listed in my column.

Further, to label Statham pro-choice is to ignore the reservations concerning choice that he has stated in the past, especially concerning the use of public funds to pay for abortions.

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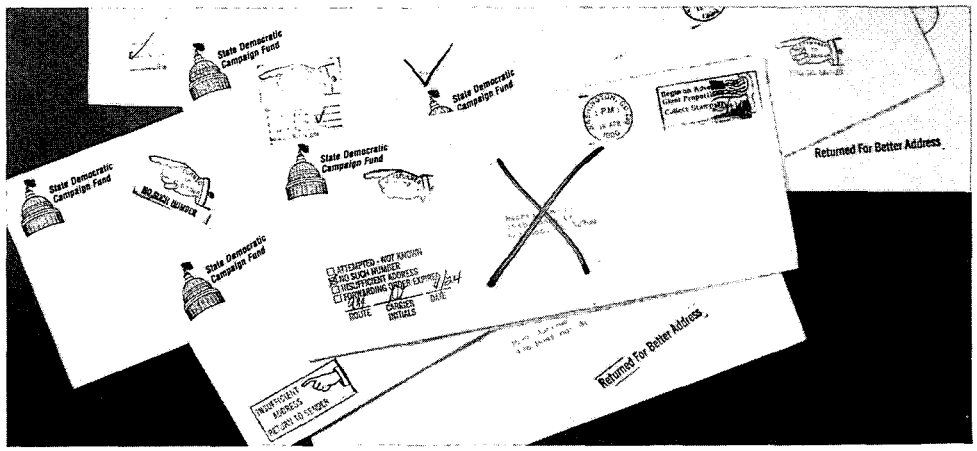

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WHAT US WORRY?

Budget deadlock t

They took the deadlock over a state budget to the brink — to the 11th hour, 59th minute, 59th second. They yammered and bellowed and stamped their feet and held their breaths until they turned blue, these politicians who sit as governor and legislators. Along the way, they skewed what could have been substantive debate into surreal posturing. And finally, nearly a month late, they produced a patched-together, $55 billion budget that postponed the crunch rather than dealt with it.

Not that the problem was easy to solve. In fact, the five budget negotiators — Governor George Deukmejian, Senate Democratic leader David Roberti, Senate Republican leader Ken Maddy, Assembly Speaker Willie Brown Jr. and Assembly Minority Leader Ross Johnson — faced two problems: an immediate $3.6 billion deficit in the 1990-91 budget; and permanent budget structures that mandate state-financed services for ever-increasing numbers of people regardless of how much revenue the state has to spend.

From day one, the solution to the most pressing problem — the deficit — was obvious to everyone: some combination of spending cuts and additional revenue to spread the pain equitably.

And yet the deadlock dragged on for six weeks, exacerbated by two factors. First, the fact that the budget bill needed a two-thirds majority in each house of the Legislature gave a small band of Assembly Republicans the chance to cripple the entire process. Second, and most important, Deukmejian insisted on tackling the most complex dilemma — the budget's permanent structure — as a prerequisite to fixing the deficit.

Thus, the budget deadlock turned on a fundamental question: Will government generate revenues to pay for programs, or spend on programs according to the revenue on hand?

The governor, supported by Assembly Republicans, took the latter view. He wanted the Legislature to grant him what he called "structural reforms" — permanent, procedural tools that would allow him to cut all spending according to his own set of priorities. Republicans saw this as protecting their natural constituencies: basically, those who have bulky tax bills, like upper- and middle-income taxpayers, businesses and corporations. On the other hand, the Democrats who control the Legislature were loathe to cede to Deukmejian — or to any governor — that kind of power. They wanted to protect their constituencies — for instance, labor and the poor and elderly — who are helped by laws established over the years to guarantee spending levels for entitlement programs, especially in health and welfare and in education.

In a sense, Deukmejian's point on structural reform was well taken; constraints placed on budgeting by a myriad of state and federal laws hamper government's ability to adequately meet fiscal emergencies and to shift resources

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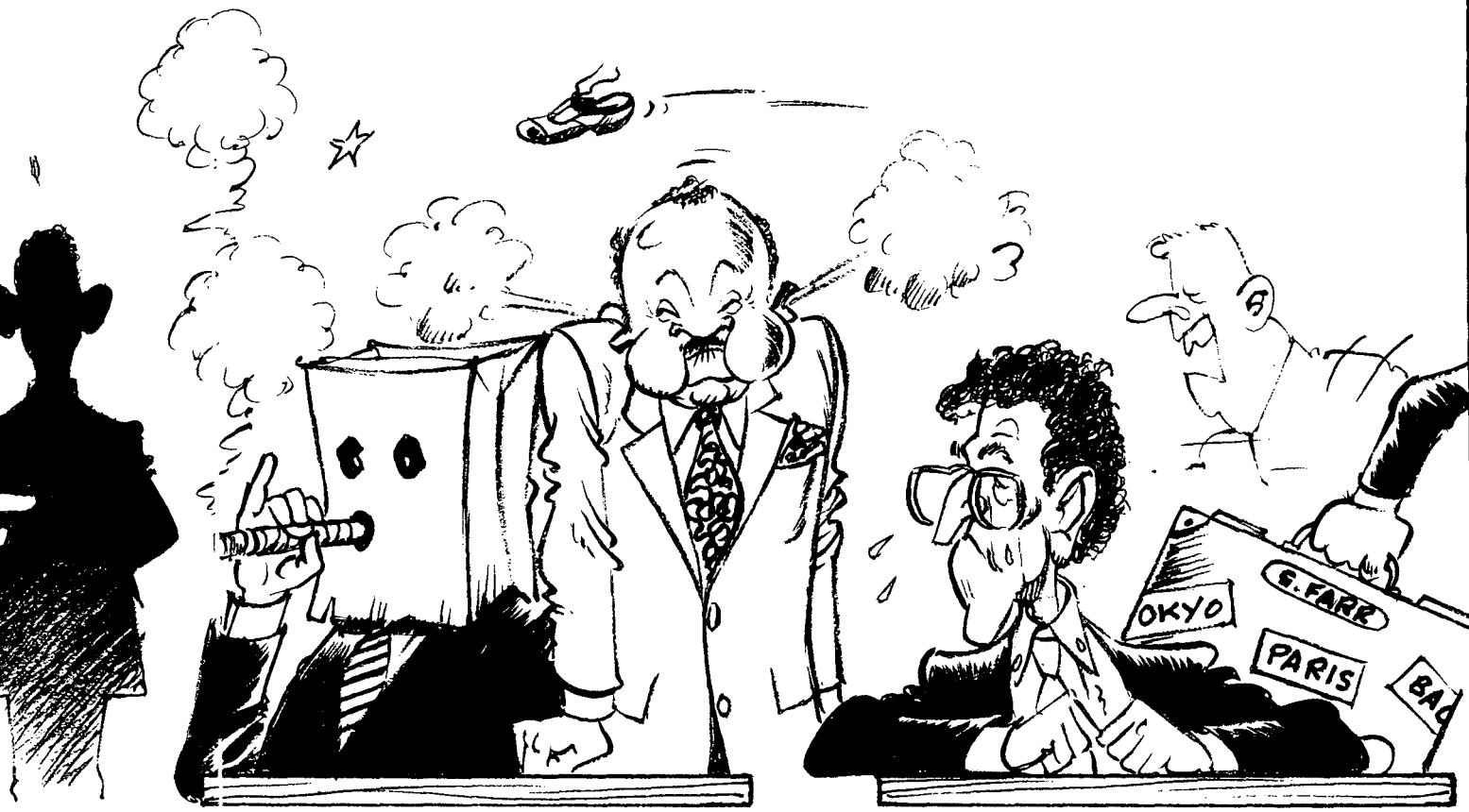

s state to the brink

By A.G. Block

among various programs to address the needs of a dynamic and changing s ate.

"We wanted structural reforms that would bring expenditures mo e into line with revenues," explained Michael Frost, D eukmejian's chief of staff. "We need to get the state off automatic-pilot growth that is unrelated to our ability to pay fo it."

But Deukmejian, who leaves office in January, ignored a basic political reality when he insisted on sweeping changes that would shift purse-string power from the Legislature to the governor: No Democratic-controlled Legislature was about to bestow that kind of control on a lame-duck Republica n.

Yet Deukmejian insisted on those structural reforms and, in so doing prolonged the budget deadlock. He waited for the other side to cave in — Democrats always do the responsible thing and cave in; after all, it is their constituents who are waiting for the delayed state checks — and he waited and he waited, long past the time when evidence indicated that the other side would not cave in; right up to the brink of fiscal disaster for the state. In the end, Deukmejian caved in on his main reform priority — the suspension of laws guaranteeing a certain percent of the budget for education (Proposit on 98) — accepting instead a modest reform and agreeing to a compromise over spending cuts and revenue enhancements that could have been reached at the beginning of Jur e.

The symbolic battleground for the squabble between Deukmejian and the Legislature became Proposition 98 — the successful 1988 initiative that altered the budget structure to guarantee a sizeable chunk of the state's general fund for K-14 education (kindergarten through community college). Deukmejian had opposed Proposition 98, considering it bad law to lock up so large a share of the state budget for any purpose. But his view of the measure was further skewed by the fact that one of its main political beneficiaries was Superintendent of Public Instruction Bill Honig — Deukmejian's number-one political bogeyman whose whining public criticisms of Deukmejian over the years more often than not threw gasoline on a smoldering relationship.

Based on Proposition 98, K-14's share of the general fund is determined in one of two ways. The administration recommended what it called "test one:" a flat 41 percent. Assembly Democrats, backed by the education establishment and with help from dissident Assembly Republicans, wanted "test two:" full funding for Proposition 98 based on the previous year's budget allocation, plus increases for cost-of-living and inflation. The initiative calls for the higher of the two amounts but also allows the Legislature to waive the full-funding provision in a fiscal emergency. The difference between the two versions amounted to between $700 million and $800 million dollars.

"During June and July," said a source close to the bud-

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get negotiations, "however we approached the revenue issue or the reduction issue — one-time revenue stuff for reserves, or transfers of revenue to counties to backfill the reductions — there was never closure within $600 to $800 million on the deficit because that was always the amount ... that was the supposition of [waiving Proposition 98]."

And it was this final $700 to $800 million gap that provided the key to the deadlock. Deukmejian wanted to close it by waiving Proposition 98; Democrats wanted to make up the difference with a few more cuts, a few more fee increases, and some budgetary hocus-pocus.

Complicating the squabble was the behavior of Assembly Republicans. In June a group of Republicans, led by Tom McClintock, held a press conference that essentially torpedoed the governor's strategy for Proposition 98. During that press conference, McClintock and the others vowed to protect Proposition 98 — all of it. No waiver, period.

It has been suggested that the Republicans took this stand on political grounds, to drive a wedge between Assembly Democrats and one of their most consistent and wealthiest allies — the powerful California Teachers Association.

"They wanted to go out there and look like heroes because they were all for education," said a source close to the negotiations. "They [the Republicans] figured that if they held absolutely tough on the amount of revenue increases they were willing to accept, and absolutely tough on protecting Proposition 98, Democrats simply couldn't balance the budget without suspending Proposition 98. Democrats would be the bad guys by putting 98 on the table because they couldn't take the extreme cuts in other programs. They [Republicans] thought Democrats would blink, and this would break the political connection between Democrats and the CTA."

The 1990-91 budget

Total: $55.7 billion ($42 billion, general fund)

Revenues:

Personal income taxes — $18.7 billion
Sales taxes — $14.5 billion
Special sales taxes — $600 million
Bank and corporation taxes — $5.9 billion
Highwau user taxes — $3.5 billion
Insurance taxes — $1.3 billion
Cigarette taxes — $148 million
Proposition 99 cigarette taxes — $615 million
Other, general fund — $2.3 billion
Other, special fund — $1.7 billion

Expenditures (general fund, total):

K-14 education — $17.8 billion, $19.6 billion
Health and Welfare — $13.2 billion, $14 billion
Higher education — $4.4 billion, $4.7 billion
Local government subventions — 0, $2.9 billion
Business, transportation, housing — $116 million, $4.2 billion
Corrections — $2.8 billion, $3.5 billion
Resources — $700 million, $2 billion
State and consumer services — $300 million, $600 million
Other — $1.9 billion, $2.3 billion

Source: Department of Finance

The strategy backfired, however, for about the same time Assembly Democrats were reaching the conclusion that they, too, would stand solid behind Proposition 98. Not that all Democrats were sold on the measure; privately, many of them agreed with Deukmejian that it was bad law. Unfortunately, it was operative law, and many school districts throughout the state had made contractual salary commitments, especially to teacher unions, based on a certain level of Proposition 98 funding.

"The reality of suspending 98 meant a $800 million cut for education, and the reality was that a lot of teacher contracts had already been signed," said Democratic Assemblyman Richard Katz of Los Angeles. "Given those contracts, if we were to reduce the amount to education, the money had to come from somewhere, and the somewhere was other cuts in education. This meant larger class sizes or fewer textbooks and other materials. Given these realities, the impacts in the classroom would have been severe."

Too severe for Democrats to stomach. Thus, when the CTA approached them in the wake of the Republican news conference, and asked for a similar commitment to protecting all of Proposition 98 funding, Democrats agreed.

Proposition 98 was, as they say, "off the table."

Yet Deukmejian continued to hold out, getting what Chief of Staff Frost said were "mixed signals" from various factions in the Legislature over whether the political will existed to waive Proposition 98. Thus, as the deadlock dragged on through a sweltering July, the governor sat on his hands, offering no more solutions, content to let a hopelessly befuddled Legislature wrangle and grope in circles, holding the process hostage to his desire to suspend Proposition 98.

Meanwhile, the budget debate dissolved into political theater. The state missed a payroll, allowing thousands of state workers to go unpaid, sending some of them to charities for free food. A $598 million payment to counties, cities and Medi-Cal providers was missed. Counties, in turn, did not issue checks to families dependent on welfare, while some directors of programs for the mentally disabled took out bank loans to keep their doors open. The Department of General Services froze all state purchases, sending a ripple throughout the entire economy. The courts intervened piecemeal when various judges began ordering the state to pay up so that counties could issue welfare checks.

There was some movement on July 10th when the state Senate, coaxed along by Maddy and Roberti, passed a compromise budget that included $1.7 billion in cuts and $1.3 billion in increased revenues. The Senate version, however, still left nearly $600 million for Deukmejian to axe to bring it into balance. The Senate passed its budget, then left town, with even its architects agreeing that it was not an end-all, be-all, but a document for the Assembly to negotiate over.

But the Senate document was burned before the ink dried. Deukmejian didn't like it because it gave him no reforms while adding more revenues. Moreover, the effort was pronounced dead-on-arrival in the Assembly, with Republican Bill Baker calling it "dog doo" because of the increased fees and taxes. Democrats didn't like many of the cuts, and

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didn't like the fact that Deukmejian's blue pencil would still have to slash $600 million.

And the deadlock continued. A few members — Assembly Democrats, mostly — worked at ideas, at solutions, at compromise. Others — notably, Assembly Republicans — fomented chaos, playing "air raid" with any proposal; shooting first, asking questions never, and controlling enough votes to prevent the 54-vote majority needed to pass a budget. They were emboldened by Deukmejian's continued insistence on structural reform.

Under the best of circumstances, a $3.6 billion deficit would be difficult to fix without what *The Sacramento Bee* called a "book of pain." It would require the governor to work closely with Republicans and Democrats in both the Senate and Assembly to craft a solution that spread the pain around, but also one that accommodated political realities. It would require the application of a standard of reason acceptable to a wide variety of interests.

But 1990 was far from the best of circumstances. A lame-duck governor was displaying his well-known stubborn streak. The Senate passed a flawed budget and left town. And the Assembly lurched out of control, fractured into so many pieces that a small group of ideologues could practically paralyze attempts to patch together 54 votes. One entire caucus — the Republicans — was rudderless, with no effective leader to coax its various factions toward an acceptable solution.

Thus, the process evolved into a surrealistic Tower of Babel where everything was familiar but nothing was as it should have been; rather like athletes playing football on a baseball diamond. Libertarianish Republicans vowed to protect every nickel of education money mandated by a law (Proposition 98) they loathed, while proposing to make up the difference by privatizing everything from prisons to street lighting. The governor and other Republicans proposed solving the deficit solely with program cuts, a suggestion so draconian that some observers warned it might require shutting down one or two UC campuses. Conservative Assembly Republicans tried to hold up the budget at the 11th hour over what they said were unacceptable cuts in mental-health programs. Democrats conceded, early in the process and without a fight, suspension of cost-of-living adjustments (COLAS) for the poor and elderly. And they, too, publicly went to the mats to protect Proposition 98 while privately lamenting that the law existed in the first place.

Finally, on July 25th, Deukmejian resurfaced, having held out to the last gasp for suspension of Proposition 98. He had received word from the East Coast bond raters that failure to adopt a budget would soon put the state's triple-A bond rating in jeopardy. The governor called another "leadership meeting" with Roberti, Maddy, Brown and Johnson. And when that meeting convened, Deukmejian conceded defeat on Proposition 98. A combination of budget cuts and fee and tax increases was patched together with some deferred payments — all carried in 18 trailer bills — and a budget was proposed to each house of the Legislature that bore a the stamp of approval from leadership and from the governor (see box, page 424).

Finally, Democrats gave in on a modest budgetary reform — a so-called "trigger mechanism" that would reduce most state general-fund programs 4 percent across the board when the governor's projected budget indicates a revenue shortfall of one-half percent. It would not affect K-14 education, debt service or the homeowner's exemption because they are protected by the state constitution. Had the trigger been in place for the current year, it would have axed $210 million from the budget up-front. The governor considered the trigger a major reform because it gives him the ability to make blue-pencil reductions in welfare COLAs, something he could not do without the trigger.

Ultimately, Deukmejian returned to the negotiations because the administration finally realized that it did not have the political clout to suspend Proposition 98. Why did it take so long? Michael Frost, Deukmejian's chief of staff, said that the administration sensed that both Assembly caucuses were split on the issue of waiving Proposition 98, and that eventually they would come around to the governor's view. He argued that the initiative itself calls for waiver in a fiscal emergency.

"If this wasn't a financial emergency, I don't know what is," said Frost.

Even after leadership agreed to a budget proposal, all was not peaceful in Oz. The Senate quickly adopted the plan and the trailer bills, although there was some notable squabbling over a Deukmejian bill to fund construction of a prison in East Los Angeles. The Assembly, however, broke down once again. Liberal Democrats considered the pro-

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By Richard Krolak

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gram cuts too deep, while conservative Republicans thought the revenue increases too lavish. Between the two extremes, there was enough dissatisfaction to prevent a 54-vote majority. Republicans also grumped about more substantive structural reforms, calling the trigger mechanism a sham.

In the end, it came down to leadership: The Democratic caucus had some; the Republican caucus did not. Democratic Speaker Willie Brown and his lieutenants — Katz, Speaker pro Tem Mike Roos, Majority Leader Tom Hannigan, Phil Isenberg and others — brought the caucus in for the budget, albeit kicking and screaming. But Republican leader Ross Johnson seemed to lose control of his membership, with enough of them voting "no" or not voting at all to deny the budget 54 votes. Ultra-conservative Tom McClintock summed up the view of many when called the proposal a "chewing-gum and baling-wire budget" put together with "happy thoughts and pixie dust."

The budget deal

The compromise deal hammered out by Governor George Deukmejian and legislative leaders at the end of July included:

- $741 million in new tax revenues (conforming California law with federal law, $561 million; withholding provisions for capital gains on real estate deals involving out-of-state buyers and sellers, $43 million; accelerating state collection of unclaimed bank accounts, $137 million);
- $102 million in fee increases (out-of-state vehicles, $50 million; state parks, $16 million; UC/CSU, $13 million; pesticide mill tax, $9 million; other, $14 million);
- $1.32 billion in cuts (suspension of cost-of-living increases for welfare, the elderly, the disabled, Medi-Cal and home-support services, long-term-care facilities, $329 million; GAIN workfare program, $101 million; UC/CSU, $109 million; local government reductions, $223 million; local health programs for the poor, $175 million; renters tax for couples, $52 million; corrections, $41 million; Medi-Cal reforms, $107 million; local trial court funding, $61 million; other, $121 million);
- $987 million in program delays and funding shifts (recalculation and reallocation of contributions to teachers' retirement fund, $447 million; same for public employees' retirement fund, $245 million; other transfers and delays, $265 million).

Thus, when the Assembly finally took up the budget on Friday evening, July 27th, it received only 47 votes on the first go-around. Many of the trailer bills also failed to pass. The situation was further complicated by the absence of eight members, including five Democrats: Sam Farr, Tom Bane, Jerry Eaves, Willard Murray and Elihu Harris. The three missing Republicans were Robert Frazee, Sunny Mojonnier and John Lewis. (One Democrat who was present was Sal Cannella of Modesto, who that morning had undergone gallbladder surgery and left a hospital bed to cast a critical vote on the budget.)

Finally, after subsequent unsuccessful votes, as debate meandered into the wee hours of July 28th, and with the budget one vote short, Speaker Brown dispatched a car to Oakland to bring ailing Democrat Elihu Harris out of a sickbed to cast the deciding tally. Before the car arrived in Oakland, however, the speaker managed to shame two Republicans — Pat Nolan and Paul Woodruff — into changing from "not voting" to "aye" in order to pass the budget.

A dogfight continued later that afternoon over the trailer bills but eventually they, too, passed, and passed the Senate, and were sent on to the governor, who made $753 million in additional cuts. On August 1st, California had a 1990-91 budget.

In the wake of any political brawl, it is common to assess winners and losers. But there may be no winners here. Governor Deukmejian is considered a loser because he caved in on Proposition 98 and because he agreed to tax and fee increases that he had vowed to avoid. And because after eight years as a fiscal watchdog, he leaves his successor with as much of a budgetary mess as he inherited from Jerry Brown in 1983. But much of that mess is beyond his control. And on the issue of structural reform, he was right — the budget is hamstrung by too many laws, Proposition 98 among them, that mandate money to special interests and at levels that are often not in tune with how much the state has to spend.

The state Senate, led by Maddy and Roberti, emerged with its reputation for deliberate and reasonable debate intact. It, at least, made some attempt to pass a compromise budget on time. In fact, its budget, although flawed, laid the groundwork for the final compromise.

Assembly Democrats behaved like Assembly Democrats. They engaged in long, arduous, often rancorous debates over budget proposals. Ways and Means Chairman John Vasconcellos, for one, released publicly a letter to Deukmejian telling how proposed budget cuts had reduced him to tears on a ride home from the Capitol. In the end, he was cut out of the process in favor of more practical Democrats, despite the fact that his name was on the budget bill itself. But at least Democrats produced budget proposals, including the final compromise. They were engaged in trying to solve the problem.

And then there are the Assembly Republicans. They came away from this budget ordeal as buffoons, the Keystone Kops of California government. From the start, they assumed the role of nay-sayers; their strategy was not to have a strategy. They never produced a budget proposal, or even any compromise solutions but remained content to wait for Democratic proposals at which they then threw supposedly slashing rhetoric. This lack of action, coupled with a lack of substantive proposals, revealed a caucus verging on political and intellectual bankruptcy. They were accorded power in this fight only as long as Deukmejian held out for Proposition 98 suspension. Once the governor gave up the fight and agreed to a compromise, the Assembly Republicans became politically isolated and irrelevant.

Repeated attempts were made to contact Assemblyman Ross Johnson for the Republican view, but Johnson did not return *Journal* calls.

The biggest loser, however, may have been government itself, and the notion that conflicts in government can be resolved by reasonable men and women engaged in substantive debate over alternatives. Reasonable and substantive debate was seldom heard during these budget negotiations.

And what about that fundamental question: Will government generate revenues to pay for programs, or spend on programs according to the revenue on hand? No one answered it; few even addressed it. Thus, it becomes a legacy for the next governor and the next Legislature.

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Smith
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By Jar

If Democrat Arlo Smith has this pegged right, the issue — the *only* issue — is preserving a woman's right to choose an abortion. If he is right, the voters will look past his lackluster record as San Francisco district attorney, ignore his more articulate Republican opponent, and elect him attorney general of the state of California.

But if Republican Dan Lungren is correct, the voters are plain fed up with gangs and drugs and drive-by shootings. If he is right, the voters will not care a whit that he is against abortion rights or that he has never spent a moment in court as a prosecutor. They will respond to the chords he loudly sounds and elect him attorney general.

Thus, two very different men bring their very different philosophies, personalities and outlooks on life into a battle for a statewide office that is second in importance only to that of governor. And an office that is often a stepping-stone to that position.

Vying to succeed Democrat John Van de Kamp, who did not seek re-election so that he could run for governor, Smith and Lungren were scarcely known to Californians at the beginning of the year. Smith, who has spent most of his career in the attorney general's office, was hardly known even in the city that has elected him its district attorney for 12 years. Lungren, once an obscure congressman from Long Beach, has been out of office for almost two years. His

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Jim Richardson is a reporter in the Capitol bureau of The Sacramento Bee.

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only other attempt at gaining statewide office came when he was nominated to be state treasurer by Governor George Deukmejian following the death of Jesse Unruh. However, his appointment was unceremoniously squashed in the state Senate, which decided Lungren was too partisan for the job. By that time, Lungren had given up his congressional seat in anticipation of becoming treasurer.

In a sense both Lungren and Smith are underdogs, and each has a Walter Mitty quality about his candidacy. But for one of them, the fantasy will soon become real; one of them will be a major political figure in the nation's largest state.

As the 1990 election unfolded, Smith was rated a longshot to wrest the Democratic nomination away from Los Angeles District Attorney Ira Reiner, who was better known and better financed. Smith barely elicited mention in early campaign coverage in the state's newspapers. But underwritten with loans and armed with his own tenacity, Smith tirelessly flew up and down the state branding Reiner as a terrible prosecutor, too ambitious for his own and everyone else's good. Reiner proved to be almost indifferent to Smith's challenge — surprisingly so, given his long history of go-for-jugular politics in Los Angeles. Overconfident to the end, Reiner was hobbled throughout the campaign by the McMartin pre-school molestation case, a messy affair that he inherited from his predecessor but could not seem to end. Smith, despite several campaign gaffes, beat Reiner by a narrow margin for the nomination.

Continued on next page

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Lungren has bounced back from nowhere. He had given up his congressional seat representing Long Beach to accept appointment as state treasurer from Governor George Deukmejian in 1988. Then the Democratic-controlled Senate dropped a bomb on Lungren's ambitions by rejecting his nomination after a drawn out confirmation battle. When the state Supreme Court ruled that the Senate was within its rights, Lungren was left having to seek office the old fashioned way — earning it at the ballot box.

Lungren went in search of an office, settling on attorney general — an office that by predilection and interest suited him better than treasurer. As Deukmejian's protege, the way was cleared for Lungren to have an uncontested primary.

Even before Lungren and Smith won their respective nominations, the two could not wait to get at each other's throats. The two barnstormed the state together in a series of "Lincoln-Douglas" debates with no rules, no set subject matter, no panel of journalists posing questions. Their philosophies and personalities crashed headlong into one another; Lungren and Smith hurled invective and insult at each other, then walked off the stage to meet again a few days later in another city.

Often condescending toward his opponent in those debates, Smith fell short of calling Lungren "sonny boy," but he might just as well have. He frequently pointed out that Lungren had less legal experience than he, and tut-tutted him on points of law. For his part, Lungren branded Smith a soft-on-crime liberal and breathlessly cited cases and laws to counter Smith's legal points.

Beyond their policy and personality differences, the two have diametrically opposing views about the role of the office they seek. Lungren sees himself as the enforcer of laws, even those that are unpopular or bad policy. He says he will defend the state and its laws, even if he personally disagrees with those laws or the officials who made them — unless they are clearly unconstitutional. Smith, however, says he will not defend the state against lawsuits on issues upon which he has a basic policy difference. For example, Smith says he will not defend any law requiring parental consent for a minor to have an abortion.

Smith does not concede for a moment his standing as a crime fighter — he personally argued in the Supreme Court to uphold the death penalty and paved the way for the state's last execution. But he also emphasizes that the attorney general plays a pivotal role in forming law by the positions he takes in civil cases on issues including off-shore oil drilling, timber cutting and — he underlines — abortion.

Up front — loud and clear — Lungren acknowledges that he is a warrior for the conservative cause. He advocates political confrontation with the Democrats — loud confrontation — particularly with those who, in his view, are bottling up worthwhile anti-crime legislation. He embraces the tactics of the Assembly's far-right wing to attempt withdrawing bills from committees and generally tie up the Legislature in parliamentary maneuvers until its Democratic leaders relent. It is not for nothing that senators found him hard to take — he was his own worst enemy — during his unsuccessful bid to be confirmed as state treasurer.

Lungren sees the primary issues of the campaign as crime, crime and crime. He sees the attorney general's role chiefly as the state's top cop. "There are kids being killed today," he says in his stock campaign speech, pounding at his listeners. "There are families that can't allow their children to sleep in the front rooms of their bedrooms."

Never mind that he has never put a single crook behind bars.

To make up for his lack of prosecutorial experience, Lungren points out that he played a major role in forcing the Democratic-controlled House of Representatives to pass an anti-crime omnibus bill. He says he can play much the same legislative role as attorney general, pushing issues and trying to embarrass Democratic legislative leaders into moving on his agenda.

"One of the major problems in Sacramento is that the liberal Democratic elite has managed to create an organizational structure that kills tough law-enforcement legislation without people knowing about it," says Lungren.

But Lungren has been on the defensive from the start over abortion. As a congressman, he hewed to a strict anti-abortion rights stance. However, in a state where polls show two-thirds of the electorate are pro-choice, Lungren's views are a political liability, no less so because he is loud about them.

Rather than change — no one doubts the sincerity of his beliefs — Lungren has tried to downplay the importance of abortion as an issue. He has not found that an easy task. For one thing, Smith reminds his listeners that Lungren is anti-choice. For another, Lungren *likes* to explain his views.

Lungren has found himself hamstrung on abortion. He has said he would enforce the law whatever it is. If the law of the moment is that women have the right to choose an abortion, he will enforce that. But, he has said, he will use whatever opportunities present themselves to test abortion law.

"If you think I am going to be still and somehow reject the positions I've had over the years, that is untrue," said Lungren in July at a press conference at the state Republican convention in San Diego.

If, for example, he gets the opportunity to enforce a parental-consent abortion law, he says he will fight to uphold it.

"We would defend it at the first opportunity we got," he said at his convention press conference. "When cases have a high visibility, it seems to me, there's an obligation to make sure you give them some priority because people have a right to expect the governmental process is dealing with the issues."

Lungren's one concession to those who are pro-choice — if it is a concession — is vowing not to use his office as a "bully pulpit" to change abortion laws. "I would not do anything as attorney general to advance my views on abortion," he said.

But Lungren is hard pressed to explain what the difference is between a "bully pulpit" and garden variety advocacy of his positions.

"I would hope to be a part of the debate on issues that are of major concern to this state. In terms of attorney general, I would not use it as a bully pulpit on the issue of abortion. I would not do anything other than present [my view on] that issue."

As he did against Reiner, Smith has hammered away at Lungren for his positions on abortion and everything else he can dredge up. Smith has tried to score Lungren for the work upon which he is most proud: anti-crime legislation in Congress. Smith contends that Lungren voted against increasing grants to local police agencies for drug enforcement. "When it comes to the funding that communities need to fight drugs," says Smith, "Dan Lungren 'just said no.'"

Nor is Smith above making politi-

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A CALIFORNIA JOURNAL ANALYSIS

NOVEMBER 1990 BALLOT PROPOSITIONS

REPRINTS

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PROPOSITION NUMBERING

In 1983 the Legislature passed a law requiring that ballot measures be numbered consecutively from election to election, starting with November 1982. Previously, each election got its own set of proposition numbers starting with 1. But the system proved confusing. If you say "Proposition 13", do you mean the tax-cutting proposal of 1978 or the water-conservation proposal of 1982? Since 1982, 123 propositions have appeared on various ballots, thus the current crop begins with number 124. It will continue this way for 20 years, so the next Proposition 1 will be in 2002.

124 PUBLIC FINANCE

A legislative constitutional amendment to allow local hospital districts to own corporate stock.

Background: The state constitution generally prohibits state and local agencies from acquiring and owning corporate stock. There is an exemption that allows water and irrigation agencies to own stocks that control water rights.

Proposal: This measure would make an exception to the stock ownership provisions for local hospital districts. This exception would allow these districts to form corporations with doctors or other health-care providers for the purpose of establishing health-care-related facilities such as outpatient surgery clinics or prepaid health-care programs. These joint operations have become common between private hospitals and physicians or other health-care businesses, but constitutional restrictions prevent elected hospital districts from participating.

Arguments for: Sponsors of the measure, including Republican Assemblyman Tim Leslie of Carmichael and the Association of California Hospital Districts, argue that government hospitals are at a disadvantage in providing health services because they cannot create the partnerships that are becoming more common in the health-care field. This lack, particularly in rural areas, means that some types of health care will not be available. They argue that the shift will not cost taxpayers any money because revenues from the corporations will cover the costs.

Arguments against: The Libertarian Party opposes this measure. They argue that public companies should not have the same rights of competition as private firms and that public agencies should not be given this power, since they could unfairly influence what should be free market decisions made by consumers.

125 MOTOR VEHICLE FUELS. TAX REVENUES. PUBLIC MASS TRANSIT GUIDEWAYS.

A constitutional amendment to allow the use of gasoline taxes to purchase light-rail cars and trains for intercity rail systems.

Background: The state constitution restricts the use of money from motor-vehicle gasoline taxes to the construction, operation and maintenance of the state's roads and freeways, and for the operation of the Highway Patrol and the Department of Motor Vehicles. In addition, money from gasoline taxes may be used, with voter approval, to construct local trolley lines and railroad lines between cities.

Proposal: Proposition 125 will expand the uses of gasoline taxes to include the purchase of "rolling stock" for local and intercity railroad lines if local voters give their approval.

Arguments for: Backers of this measure, including Fresno Democratic Assemblyman Jim Costa, the California Transportation Commission and the Planning and Conservation League, argue that one of the major needs of mass-transit rail systems is additional rail cars. These will allow existing systems to carry more passengers and encourage more people to use public transportation systems. A balanced transportation system will be better for all commuters, they argue. They also argue that the measure will only shift the use of existing taxes and that no new taxes will be imposed.

Arguments against: The Libertarian Party, which argues against most forms of public transportation, is opposed to this change. The party argues that mass transit systems are already heavily subsidized and that it is unfair for those who drive automobiles to pay for the transportation of those who use public transit systems. Furthermore, they argue that to the extent more money is diverted to the purchase of rail cars, less will be available for highway construction and maintenance and that additional taxes may be necessary to cover this loss.

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126 ALCOHOL ABUSE AND DRUG EDUCATION TAX ACT OF 1990

A constitutional amendment, placed on the ballot by the Legislature, to raise state taxes on most alcoholic beverages. (See Proposition 134)

Background: California currently imposes a state tax on alcoholic beverages at the rate of $2 per gallon on distilled spirits, 4 cents per gallon on beer and 1 cent per gallon on most wines. In 1990 these taxes meant about $128 million to the state, with the bulk of it from the tax on liquor (76 percent, according to the legislative analyst). The money becomes part of the state general fund, with no specific strings attached for spending these revenues. California hasn't raised the tax on liquor for more than 20 years, the tax on beer since 1959 or the tax on wine since 1937. As a result, the state's rates are among the lowest in the nation.

Proposition 126 is part of the on-going battle to raise these taxes. For the most part, that battle has been fought out in the Legislature where the alcohol industry has succeeded in defeating attempts to hike the tax. In 1990, however, frustrated proponents of the tax increase decided to forsake the legislative arena and take their case for an increase directly to voters via the initiative. Thus, the campaign was launched that eventually placed the so-called "nickel-a-drink" tax (Proposition 134) on the November 1990 ballot. That measure seeks to raise nearly $800 million in new revenues and specifies how the money is to be spent.

The alcohol industry fought back by marshalling its legislative allies, who rammed a bill (ACA 38, by Democratic Assemblyman Dominic Cortese of San Jose) through the Legislature to place a competing alcohol-tax measure on the November ballot (Proposition 126). According to *The Sacramento Bee*, the industry has contributed $1.6 million to the campaign coffers of elected state officials during the past three years, and supporters of Proposition 134 claim that that money bought the industry the influence it needed to get its own measure on the November ballot. The industry also launched a multi-million-dollar campaign to defeat Proposition 134.

Proposal: Proposition 126 increases the tax on beer, wine and liquor, beginning March 1, 1991. All money raised by the new taxes would go into the state general fund.

- Beer: from 4 cents to 20 cents per gallon (about 9 cents per six-pack).
- Wine: from 1 cent to 20 cents per gallon (about 4 cents per 750 ml bottle).
- Liquor: from $2 per gallon to $3.30 per gallon (about 26 cents per 750 ml bottle).

Proposition 126 also attempts to eliminate Proposition 134 by mandating that, of the two measures, the one with the largest number of votes takes effect and *none* of the provisions of the other measure take effect. The legality of this provision is uncertain because the state Constitution requires that when two successful measures conflict only the conflicting provisions are eliminated from the measure that receives the lesser number of votes. According to the legislative analyst, Proposition 126 will raise about $195 million during its first full year (1991-92). Subsequent revenue yields will depend on how the additional taxes affect alcohol sales.

Arguments for: Proponents include the alcohol industry, Ed Foglia of the California Teachers Association, David Brown of the Association of California School Administrators and Democratic state Senator Al Alquist of San Jose. They argue that because Proposition 126 earmarks all revenue for the general fund, 41 percent of that money will go to schools, which may then use the revenues to teach children about the dangers of alcohol abuse. They claim that the measure will raise nearly $1 billion over the next 10 years for schools. An additional $1 billion could go for other programs to combat alcohol abuse, including hiring more police to patrol for drunk drivers. They argue that Proposition 126 is preferable to Proposition 134 because 134 revenues go into specific programs and contain millions of dollars in hidden costs to taxpayers. Proposition 126, they say, merely raises alcohol taxes.

Arguments against: Opponents — including Democratic Assemblyman Lloyd Connelly of Sacramento, Steven Madison of the California Consortium for the Prevention of Child Abuse, Dr. Donald Brown of the California Council on Alcohol Problems, and Chief Donald Burnett of the California Police Chiefs Association — say that Proposition 126 is merely a tool in the alcohol industry's strategy to defeat Proposition 134. They argue that the industry has fought any kind of tax increase for decades and only lobbied the Legislature for Proposition 126 after Proposition 134 went on the ballot. Proposition 134 guarantees that revenues earned by the tax will go for programs associated with alcohol and drug abuse, while Proposition 126 revenues go into the general fund to be spent as the Legislature sees fit.

127 *PROPERTY TAX. NEW CONSTRUCTION.*

A constitutional amendment proposed by the Legislature to create a property tax exemption for building modification made to improve earthquake safety.

Background: The state constitution currently places a limit on increasing property taxes because of the added value of a property, except for a small increase for inflation, unless a building is sold or if major additions or improvements are made. This new construction is then taxed at its higher value. Some exceptions have been made to this increased tax rule, notably for unreinforced masonry buildings, mostly brick, that are subject to damage in earthquakes. The improvements to these buildings, which are often required by law, are free from added taxes for 15 years; then they are taxed at the higher value.

Proposal: This measure will add an exception to the increased tax rule for other types of improvements made to buildings for earthquake safety reasons, whether required by government or not. The measure will allow these to be free of increased taxes until the property is sold. No change will be made in the 15-year rule for unreinforced masonry buildings. The legislative analyst estimates that an unknown amount of money, but probably several million dollars statewide, will be lost to cities, counties and school districts as a result of this measure.

Arguments for: Backers of this measure include Senator Don Rogers, a Republican from Bakersfield, and the California Seismic Safety Commission. They say the proposal is necessary to give building owners an incentive to make improvements that will protect their property from damage in the event of earthquakes. They note that each time there is a major quake, new methods of preventing damage are discovered, and this measure has the flexibility to keep up with these changes in technology. They argue that it is unfair for building owners to have to pay twice for building improvements — once for the construction itself and again for the added taxes. Furthermore, they say that to the extent damage is prevented, there will be less need for the government to spend money on earthquake relief measures.

Arguments against: *No arguments were submitted* against this measure. However, it can be argued that it is unfair for taxpayers to have to subsidize improvements that will add value to private property and that the increased safety is enough of a reward for those who make this type of improvement to their property.

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128 NATURAL ENVIRONMENT. PUBLIC HEALTH. BONDS.

An initiative statute to make significant changes in the way the state regulates a number of environmental and natural resource issues, including timber harvesting, the use of pesticides on crops, air and water pollution, and off-shore oil drilling. It establishes an elective position of Environmental Advocate, establishes a $40 million research program and calls for the sale of $300 million in bonds to protect old-growth redwood forests and for the planting of new trees. (See also Propositions 130, 135 and 138)

Background: The state and federal governments currently have an extensive array of laws regulating public health and the state's environment and natural resources. Environmental groups have argued that the state has not made enough progress in regulating damaging industrial and agricultural practices that harm health and environment. They claim that special-interest groups have prevented the Legislature from doing all it should in these areas. Industry and agriculture representatives, however, say they are moving as quickly as possible while still maintaining a healthy economic climate for the state, and that current practices protect human health.

Proposition 128, known by its popular name of "Big Green," is one of three measures sponsored and partially financed by Attorney General John Van de Kamp as part of his platform in his unsuccessful attempt to win the Democratic nomination for governor. Among those affected by this initiative measure are:

Pesticide and food safety. The state's Department of Food and Agriculture currently administers a program regulating the sale and use of pesticides on agricultural products to control bugs, molds and other damaging pests. The department regulates both the manner in which chemicals are applied to crops and the amount of chemical residue permitted before crops are sold to the public. The department currently tests about 17,000 samples of more than 200 different crops. Active ingredients that cause cancer or reproductive harm currently are banned, unless they can be used in a way that causes no serious health risk.

Air pollution emissions. Modern society has changed the composition of the earth's atmosphere through the burning of fossil fuels for energy and in automobiles, and through the cutting of forests for energy and construction. There is concern that the increase in these gases will result in a warming of the planet, known as the "greenhouse effect," with possible disastrous effects to the environment. A variety of state policies affect this area, including regulations of electric generation plants, automobile use and forestry practices. State law calls for the reduction of a number of chemicals, including carbon monoxide and nitrogen dioxide levels over, a 20-year period. In addition, the release of some chemicals, particularly chlorofluorocarbons used as coolants, in insulation and as cleaning solvents has resulted in a reduction in the earth's ozone layer. There is concern that this reduced ozone layer is subjecting the earth to greater concentrations of the sun's harmful ultraviolet rays. Federal law requires that the production of chlorofluorocarbons be cut in half by 1998. In addition, the United States recently signed an international agreement that calls for the complete elimination of this chemical by the year 2000.

Forestry. California currently has about 19 million acres of trees that can be logged, including some 208,000 acres of redwood forests that have never been logged. Of these virgin forests, 122,000 acres are privately owned and are currently being logged or could be cut in the future. The state allows either the complete removal of all trees on a logging site (clear-cutting) or the selective cutting of trees. Timber companies are required to ensure that at least a minimum number of trees are again growing on a logging site five years after logging operations are concluded.

Oil drilling. The state currently leases some of the offshore waters it controls — waters within three miles of the coast — for oil drilling. Some state waters are protected by law and some by policy of the State Lands Commission, which also administers a program designed to prevent spills at offshore platforms, oil terminals and processing facilities. The state Department of Fish and Game is in charge of responding to an offshore oil spill and has the authority to make the party responsible for the spill pay for any damages. If the responsible party cannot pay, the department can tap into a limited fund collected from previous spills and civil penalties.

Water quality. The quality of the state's water, including discharged sewage and drain water to the ocean, is regulated by the state Water Resources Control Board and its Regional Water Quality Control Boards. They accomplish this through a variety of regulations, including restrictions on discharges made into the water supply and regulating the quality of water that comes out of sewage treatment plants. Dischargers pay a fee that pays part of the costs of operating the boards.

Proposal: This initiative is called "Big Green" by its sponsors because of the broad sweep of its environmental provisions. It would make significant changes in the state's current rules governing pesticides, forestry practices, oil drilling, and air pollution, and in the way all these programs are administered. It is one of the most controversial measures on the ballot and has spawned two other ballot measures, Propositions 135 and 138, which represent industry-sponsored counter-proposals. Affected industries have promised an all-out campaign against the measures.

The major provisions of the initiative affect:

Pesticide and food safety. Proposition 128 would adopt stricter standards for chemicals applied to foods, including banning all chemicals that cause cancer or reproductive harm regardless of the manner in which the chemical is applied. The ban would take effect in two to five years, but in some conditions the director of the Department of Health Services could postpone the banning for up to three additional years. The measure would also adopt stricter standards for all pesticide residues left on foods that might cause any sort of serious disease or injury to humans. Similar restrictions would apply to food products shipped into the state. It would shift responsibility for pesticide programs from the Department of Food and Agriculture to the Department of Health Services. The legislative analyst estimates that some 350 chemicals out of 2300 would be banned from use under this program. The analyst says that the financial implications of this provision are uncertain and depend in large measure on the ability of agriculture to find effective substitutes for pesticides currently in use.

Air pollution. This measure requires the state Energy Commission and the Air Resources Board to adopt, by 1993, a plan that would reduce the emission of "greenhouse gases" to the "maximum feasible" extent and include reducing emissions of carbon dioxide by 20 percent by the year 2000 and by 40 percent by 2010. Meeting this standard will require substantial reductions in the amount of fossil fuels used by industry, electrical power stations and in automobiles, with possible substantial effects on many sections of the economy, depending on how the standards are implemented. The measure also requires that the state Air Resources Board adopt a plan to eliminate the use of chlorofluorocarbons by 1997 and sets up regulations for the current use and recycling of this chemical.

Forestry. The measure would also encourage the planting of trees and a reduction in the use of forest products. It provides for the sale of $300 million in bonds to acquire stands of old-growth redwood trees and to support urban forestry programs. It also imposes a one-year moratorium on logging of old-growth redwoods. The measure also requires that one new tree be planted for every 500 square feet of land used in a new commercial or residential building. It is not clear from the initiative how this would be implemented, but under one interpretation, the builders of large commercial structures in tall buildings could be required to plant hundreds of trees in order to build. The measure would also require governments to grant a 10 percent bid preference to paper product firms that

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provide recycled paper.

Oil drilling. This measure would prohibit any new oil and gas development in state waters, except in the event of a national energy emergency. This provision would have no immediate cost, since all new drilling currently is banned, but there potentially is some $2 billion in revenue the state could realize from added oil production in coastal waters. The measure would impose a tax of 25 cents on every barrel of oil that moves through state waters, which would raise $500 million over a six-year period. The money would be used to help pay for any oil spills where the costs could not be recovered from the person or firm that caused the spill.

Water quality. The measure tightens water-quality standards by requiring coastal communities to develop plans for storm drainage that might contaminate coastal waters, and accelerating deadlines set by the State Water Resources Control Board for improving the quality of waste water from treatment plants.

Environment czar. The measure also establishes a new partisan constitutional officer, Environmental Advocate, to oversee implementation of the measure. The advocate would have the power to sue to force compliance and would serve as head of a seven-member council that would administer a $40 million grant program to finance research to help meet the requirements of this initiative.

The legislative analyst estimates that the measure would have administrative costs of about $90 million per year and revenues of about $10 million per year. Local government costs would be between $5 and $10 million per year. In addition, the $300 million in bonds will cost the state's general fund about $22 million per year over 20 years before they are retired. The environmental advocate would have a first year budget of $750,000.

Arguments for: "Big Green" is supported by a variety of environmental groups, including the Sierra Club, National Wildlife Federation, California League of Conservation Voters and the National Resources Defense Council. It is also supported by Attorney General John Van de Kamp, and by Democratic Assemblymen Tom Hayden of Santa Monica and Lloyd Connelly of Sacramento. They argue that the measure is necessary to protect the health of California residents and the state's environment. Special interests that dominate the legislative process have blocked the passage of environmental legislation, they contend, making passage of the initiative necessary. Furthermore, they say that adverse claims by industries affected by the initiative are overblown, that economic damage will be slight and in any case overcome by benefits to the environment and the lower cost of health care for a healthier population. Proponents estimate, for example, that Southern Californians pay $9 billion each year in extra sick days and medical bills caused by air pollution. They also say that voters have the right to protect themselves from the adverse effects of chemicals used on foods and that reasonable substitutes can be found that will still guarantee an adequate food supply.

Arguments against: Opponents of the measure include the chemical, timber and agricultural industries, the California Taxpayers Association, California Chamber of Commerce and California Manufacturers Association. They argue that there are adequate protections in place now for the health of citizens and the environment. Furthermore, they say that provisions of the initiative will be nothing less than a disaster for the state's economy. They say that the state's agricultural industry will be decimated by the elimination of safe and effective pesticides because growers will have to use more expensive methods and will not be able to compete with growers elsewhere. Furthermore, provisions on the reduction of greenhouse gases could cause major dislocations because of requirements to cut power consumption or curtail the driving of private automobiles. In addition, they say that current regulations adequately protect timber resources. Finally, they argue that the measure will either raise taxes or cause other state programs to be cut because it does not provide any money for the new programs it creates.

129 COMPREHENSIVE CRIME REDUCTION AND DRUG CONTROL ACT OF 1990

A constitutional amendment and statute to sell $740,000,000 in general-obligation bonds to construct new prisons and other correctional facilities; to conform state corporate tax laws to federal tax laws to provide revenues to combat drug abuse and aid law enforcement; and to amend provisions of the state constitution dealing with first-degree murder and penalties to minors.

Background: Proposition 129 is part of what Attorney General John Van de Kamp hoped would be his "platform" as he ran for governor in November 1990 (along with Propositions 128 and 131). As noted, Van de Kamp's strategy backfired when he lost the Democratic primary nomination to former San Francisco Mayor Dianne Feinstein in June. In announcing the initiative drive more than a year ago, Van de Kamp said he was concerned that the state did not have adequate resources for combating the growing problems associated with drugs in society. He also complained that too often criminals go free or employ legal means to delay and obstruct the administration of justice. Courts, he said, too often ignore the rights of crime victims. Overcrowded prisons also exacerbate society's problems, he said, because some offenders are granted early release. Proposition 129 was meant to confront many of these problems and make it easier for law-enforcement agencies to deal with the drug problem.

According to the legislative analyst, the state spent more than $1 billion in state and federal funds during 1989-90 on law enforcement, drug education and prevention programs, drug treatment and research — all aimed at reducing the use of illegal drugs in California. Money for these efforts comes from the state general fund. Local governments spent another $2 billion. Yet, many critics claim that drug use, and the crime associated with drug use, is on the rise and that more money is needed.

In addition, the state's prison system is overcrowded, with nearly 90,000 inmates housed in facilities meant to accommodate just over 50,000 prisoners. And the state always seems behind when constructing new prisons. For instance, the current effort to build $4 billion worth of new prisons by 1995 would increase the system's capacity to 114,000 inmates. By 1995, however, the inmate population is expected to be 153,000.

Proposal: Proposition 129 attempts to deal with the problem of drugs in society with a three-fold program, supported with money provided by the initiative.

First, the measure creates the California Anti-Drug Superfund, financed over a three-year period by $1.1 billion from the state general fund. The Superfund is to remain in existence until June 30, 1998. Money from this fund is to be continuously allocated for the following purposes:

- to the Department of Justice's CrackDown Task Force (10 percent, or $22 million, plus a 4 percent annual increase);
- to county sheriffs and city police departments for drug enforcement and prevention programs, and to combat gang activities (54 percent, or $120 million, plus a 4 percent annual increase);
- to county boards of supervisors for drug treatment and prevention programs, including probation supervision and prosecution (36 percent, or $80 million, plus a 4 percent annual increase);
- to state Controller and Franchise Tax Board to recover the costs associated with allocating the money.

All entities receiving money from the Superfund are required to submit annual reports to the Auditor General showing how the money was used. The Auditor General must determine if the money was used properly under the terms of the initiative and report its findings to the Legislature and to the Controller. If the Auditor General finds that some of the money was improperly spent, the Controller must withhold future funds from the offending entity. A wholesale evaluation of the Superfund program must be made by the Legislature's Joint

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132 MARINE RESOURCES.

An initiative constitutional amendment to bar the use of gill or trammel nets for commercial fishing.

Background: The use of gill and trammel nets — thin nets used by commercial fishermen to entangle fish — is an efficient but indiscriminate method of catching fish. It is prohibited along much of the Northern California coastline, but permitted in Southern California. The state currently licenses fishermen who use this method and collects taxes on each pound of fish caught. Sport fishermen object to the use of these nets, which they claim deplete the stocks of sport fish along the coast.

Proposal: Proposition 132 would outlaw the use of gill or trammel nets anywhere along the coast by 1994. In the meantime, it would increase the cost of a permit for those who continue to use the nets. It also establishes a program to compensate fishermen who give up their permits for gill and trammel nets and establishes a $3 marine fishing permit as a source of revenue for this program.

Arguments for: This measure is supported by sport fishing groups and some conservation groups. They argue that the use of gill and trammel nets is an indiscriminate way to catch fish, and depletes fish stocks for sport fishermen. Many fish with no commercial value are caught and the nets often entangle birds and marine mammals such as seals, dolphins and sea otters. There are other, more acceptable ways to catch fish. Elimination of these nets will cause little damage to the state's economy since most fish consumed in the state comes from outside the three-mile limit covered in the ban.

Arguments against: Opponents of the measure, which include the state's commercial fishermen, argue that this measure is really just a dispute between sport and commercial fishing interests and has nothing to do with the protection of marine resources. They note that use of these nets is already restricted along much of the coast and that passage of this measure will benefit a few sport fishing interests to the detriment of small, family-owned fishing businesses and citizens of the state who like to eat fresh, locally caught seafood. The price of this fresh fish would increase dramatically if the ban were in effect, opponents claim.

133 DRUG ENFORCEMENT AND PREVENTION. TAXES. PRISON TERMS.

A proposed statute to increase the sales tax rate by one-half percent and spend those tax revenues for drug-education, prevention and treatment, for law enforcement, and for prisons and jails.

Background: The initiative drive that eventually qualified Proposition 133 for the November ballot was sponsored by Lieutenant Governor Leo McCarthy, a San Francisco Democrat, and is among the growing number of initiatives put forward by candidates for statewide office (see Propositions 126, 129 and 131).

At the time he announced the signature drive for Proposition 133, McCarthy said that Californians were losing control of their streets to a growing number of criminals who were either involved in drug trafficking or who resorted to crime to pay for addictive drug habits. Law enforcement, McCarthy said, needed additional resources if it was to successfully wage a war on drugs and crime. According to the legislative analyst, the state spent more than $1 billion in 1989-90 on law enforcement and on drug education, prevention and treatment programs. The analyst estimates that local governments spent close to $2 billion. For the most part, these efforts were funded through the state general fund, which gets its revenues from, among other sources, the state sales tax. The current state sales tax rate is 5 percent, but is scheduled to return to 4.75 percent on January 1, 1991. The quarter-percent increase was enacted by the Legislature in the wake of the October 1989 Loma Prieta earthquake. Counties and cities also levy sales taxes, ranging from 1.25 to 2.25 percent.

Proposal: Proposition 133 increases the state sales tax by one-half percent (4.75 to 5.25 percent) on July 1, 1991. The rate would return to 4.75 percent on July 1, 1995. According to the legislative analyst, this increase would raise between $1.5 billion and $2.1 billion per year in additional revenue — or $7.5 billion over the life of the increase.

The additional revenues would be placed in a newly created Safe Streets Fund and allocated for specific purposes:

- Anti-drug education and counseling would be coordinated by the superintendent of public instruction, who would distribute 42 percent of the funds to schools, community organizations and child-development programs ($3.1 billion over the life of the program).
- Law-enforcement agencies would get 40 percent of the funds for enhanced street and prosecution activities. The Judicial Council would share in these funds to enhance the ability of courts to process drug-related cases. These funds would be distributed by the attorney general ($3 billion over the life of the program).
- Another 10 percent of the funds would be distributed to the state Department of Corrections, Board of Corrections and the state Youth and Adult Correctional Agency for the construction and operating costs of county jails, state prisons and youth facilities, and to support drug-treatment programs among inmates and parolees ($800 million over the life of the program).
- The secretary of Health and Welfare would distribute the final 8 percent for drug treatment and prevention, perinatal substance abuse programs, and for support services ($600 million over the life of the program).

Finally, Proposition 133 attempts to keep certain violent or drug-related felons in prison for the full term of their sentence by prohibiting those who have been convicted more than once for the same crime from receiving credits for good behavior while in prison that reduce their prison sentences.

Arguments for: Proponents — led by McCarthy, Los Angeles Police Chief Daryl Gates and Superintendent of Public Instruction Bill Honig — argue that drugs and drug-related crimes are the biggest problems facing California. They cite the rising number of drive-by shootings and gang wars plaguing cities, and the epidemic rise in the number of drug-addicted babies born each year as evidence of a situation careening out of control. The situation, they say, is exacerbated because too many criminals are released early from prison. Proposition 133, they say, will force violent offenders to serve out their full sentences. It will educate children to the dangers of drugs and provide after-school programs to give children an alternative to street life. It will also put more police on the street and give them better weapons. At the end of four years the program expires unless voters choose to extend it. Proponents say that every major law-enforcement agency in California supports Proposition 133.

Arguments against: Opponents — including Republican state Senators Bill Leonard and Marian Bergeson (McCarthy's November opponent for lieutenant governor) — argue that Proposition 133 is nothing more than another tax increase hidden inside a special-interest ballot measure. They say Proposition 133 will cost the average California family more than $500 over four years. They also call the measure's four-year lifespan misleading because once funding for many of these programs is in place, it will be impossible for the Legislature to eliminate them. Thus, they claim, the tax increase will be permanent. They also say it is misleading for proponents to advertise that Proposition 133 will put more cops on the street when the biggest chunk of revenue generated by the tax increase goes to schools, which already have a minimum guarantee of funding from the state budget. Finally, opponents say

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that the trend toward mandating expenditures through the initiative process creates a kind of fiscal anarchy that removes flexibility from the state budget process.

134 THE ALCOHOL TAX ACT OF 1990

A constitutional amendment and statute that imposes a surtax on beer, wine and liquor, creates a fund to collect surtax revenues and specifies how the revenues shall be spent. (See Proposition 126)

Background: California currently imposes a state tax on alcoholic beverages at the rate of $2 per gallon on distilled spirits, 4 cents per gallon on beer and 1 cent per gallon on most wines. In 1990 these taxes meant about $128 million to the state, with the bulk of it from the tax on liquor (76 percent, according to the legislative analyst). The money becomes part of the state general fund, with no specific strings attached for spending these revenues. California hasn't raised the tax on liquor for more than 20 years, the tax on beer since 1959 the tax on wine since 1937. As a result, the state's rates are the lowest in the nation.

The battle over an alcohol tax was first waged in Sacramento where proponents, led by Democratic Assemblyman Lloyd Connelly of Sacramento, tried for years to get increases through the Legislature. Thwarted by what he claimed was the alcohol industry's influence over lawmakers, Connelly took the initiative route, gaining enough signatures to place what became known as the nickel-a-drink tax (Proposition 134) on the November ballot. But the industry countered with a rival alcohol-tax measure (ACA 38 by Democratic Assemblyman Dominic Cortese of San Jose), pushing it through the Legislature in June. It is on the ballot as Proposition 126. According to the *Los Angeles Times*, the alcohol industry has spent $12 million to date to place its own measure on the ballot and to defeat Proposition 134.

Proposal: Proposition 140 raises the surtax on liquor, beer and wine, beginning on January 1, 1991.

- Beer: from 4 cents per gallon to 57 cents per gallon (about 30 cents per six-pack).
- Wine: from 1 cent per gallon to $1.29 per gallon (about 25 cents on a 750 ml bottle of wine).
- Liquor: from $2 per gallon to $8.40 per gallon (about $1.27 on a 750 ml bottle of liquor).

Proposition 131 also mandates how the money is to be spent: 24 percent for alcohol and drug-abuse treatment and prevention; 25 percent for emergency medical and trauma-care treatment; 15 percent for local community mental-health programs; 15 percent for prevention, treatment and health services for certain women, children and disabled persons; and 21 percent for various enforcement programs and for a statewide emergency medical air-transport network. The money must be used to increase levels of services for these programs above those paid for in 1989-90.

The most controversial part of the initiative, and the section that opponents have singled out, involves guaranteed funding levels for the five state programs impacted by Proposition 134. The state must keep funding in those program areas at 1989-90 levels (plus annual increases) and may not use surtax revenue to pay for the guaranteed funding level. In other words, the measure guarantees a funding level and then requires the state to keep funding at that level and treat the new surtax as though it did not exist. The new surtaxes may only be used to increase funding over and above the guaranteed level. The intent is that the new money be used for program augmentations rather than as a replacement revenue source for existing programs. According to the legislative analyst, the new surtaxes would raise $760 million during its first full year (1991-92).

Arguments for: Proponents — led by Assemblyman Connelly, and by Dr. Donald Bowman of the California Council on Alcohol Problems, Dr. Michael Trainor of the American College of Emergency Physicians, and Thomas Noble of the California Association of Highway Patrolmen — say that California now has the nation's lowest overall tax on alcoholic beverages and that a nickel-a-drink tax will help combat alcohol abuse and save lives. They argue that the alcohol industry opposes the measure only to protect its profits and that the tax will cost the moderate drinker only 35 cents per week. The measure, they say, targets heavy drinkers — drunk drivers and alcohol abusers — who cause most of the alcohol-related deaths. They argue that it was necessary to guarantee funding levels for various programs so that lawmakers would not reduce those programs in anticipation of revenues generated by the surtax.

Arguments against: Led by the alcohol industry and by Larry McCarthy, president of the California Taxpayers Association, opponents argue that Proposition 134 locks in $1.9 billion in spending for specific programs, then mandates annual budget increases for these programs. They claim that most of the money is to be spent on programs not related to alcohol or drug problems, and that no money is given to schools for prevention. They argue that all Californians are affected by the tax, not just drinkers, because of the spending guarantees, and that Proposition 134 could eventually spend up to five times as much as it raises. Because it guarantees funding levels from the state general fund, it threatens other programs that depend on general-fund revenues.

135 PESTICIDE REGULATION

An initiative statute to expand the state program monitoring pesticide residues on food, increase its research programs and make the Secretary of Environmental Affairs the Environmental Advocate when it comes to pesticides. (See also Proposition 128)

Background: The state Department of Food and Agriculture currently administers a program to test foods for unacceptable levels of pesticide residues. Some 17,000 tests on 200 food products are conducted each year. The department also administers a research program into pest management that costs about $39 million per year. In addition, the Department of Health Services issues regulations for the safe disposal of pesticides and other hazardous chemicals, with the cost of this disposal imposed on the individual or firm that created the waste.

Proposal: Proposition 135 is agriculture's answer to Proposition 128. It would increase the amount of pesticide testing conducted by the state Department of Food and Agriculture, but eliminate fees charged to processors for these tests and would somewhat extend restrictions on the use of chemicals that cause cancer and birth defects. It would require that the Department of Food and Agriculture collect and dispose of any pesticides which can no longer be used, with the costs paid by the state. The measure also would prohibit trucks that transport pesticides from also being used to transport food products. In addition, it would name the Secretary of Environmental Affairs — by tradition the chairman of the state Air Resources Board — as the Environmental Advocate when it comes to pesticides and agricultural matters. It calls for the State Water Resources Control Board to adopt a monitoring program to detect pesticides in water supplies, although the board already has such a program. Finally, it provides that, should this measure get more votes than Proposition 128, it will eliminate all portions of that measure dealing with agriculture and pesticides. The legislative analyst estimates that the measure will create one-time costs to the general fund of

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about $35 million and annual costs of between $7 million and $13.5 million.

Arguments for: This measure is supported by agricultural interests, food processors and the state's grocers. They argue that this measure is a reasonable alternative to Proposition 128. They say that this measure will provide safety measures without doing damage to the state's farm economy.

Arguments against: The measure is opposed by most of the state's environmental groups, including the Sierra Club, California League of Conservation Voters and the Natural Resources Defense Council. They say that the proposal is a sham proposed by chemical and agricultural interests in an effort to confuse voters and defeat the better features in Proposition 128. They argue that the measure will do little to eliminate the use of pesticides known to cause cancer and birth defects and that it will actually eliminate some fees now paid by the industry and shift these to the taxpayers.

136 STATE, LOCAL TAXATION

A proposed constitutional amendment to increase voting requirements on tax increase proposals, including two-thirds voter approval on special taxes and submission of all local tax measures to the electorate.

Background: Current state law sets differing requirements for enacting tax increases at both the state and local level. At the state level, the Legislature can impose new taxes or increase taxes only with a two-thirds vote, although it can change tax laws, if there is no overall change in revenue, on a majority vote. Voters in statewide elections can approve tax increases through the initiative process by a majority vote. In addition, some taxes are imposed on a per-item basis, such as the tax on a pack of cigarettes or the per-gallon tax on alcoholic beverages

At the local level, the rules are more confusing. The requirements for enacting a tax increase depend on whether the tax is a "general" tax, which goes for general governmental purposes, or a "special" tax designed to finance specific programs. New or higher special taxes must be approved by two-thirds of the voters. A 1962 initiative required that most general taxes be approved by two-thirds of the local governing body and a majority of the voters. However, court rulings have said that this does not apply to charter cities, which can continue to impose general tax increases by a majority vote. Other jurisdictions are currently challenging the law in court. Property tax increases are limited statewide by the provisions of Proposition 13 passed in 1978.

Proposal: This measure will make a number of changes that will increase voting requirements for tax measures at both the state and local level.

At the state level the measure would require that special taxes imposed on personal property — such as cigarettes or alcohol — be imposed on the value of the property rather than on a per-unit basis, and limits these to 1 percent for taxes imposed after November 1990. It is possible that this provision could void the tax provisions of Propositions 129, 133, both anti-crime initiatives, and 134, (alcohol-tax increase) on this ballot. This restriction would not apply to general tax increases on personal property. It would also require that all tax measures approved by the Legislature be on a two-thirds vote. It requires that special taxes approved by the voters through the initiative process be approved by a two-thirds vote, but it would allow general tax increases to be approved by a majority vote.

At the local level, the measure would require that general tax increases imposed by either charter cities or other local governments be approved by a majority of the voters.

There is a provision in the measure that allows local government agencies with a two-thirds vote of its governing body to suspend the vote requirement in case of a disaster. The suspension could last only two years.

Arguments for: Proponents of this measure — including Joel Fox of the Howard Jarvis Taxpayers' Association and Richard Gann of Paul Gann's Citizens Committee, along with a financial boost from the alcoholic-beverage industry — argue that the measure closes loopholes in existing state laws which, in most cases, require all tax increase measures to be approved by a vote of the people. The backers argue that higher vote requirements on special taxes are needed to keep special-interest groups which depend on government financing from unfairly raising taxes which will benefit their own interests.

Arguments against: This measure is opposed by an array of government employee groups and organizations such as the League of Women Voters and the California PTA. They argue against the requirement for "super-majorities" in order to win voter approval. Requiring two-thirds approval means that one-third of the voters can thwart the will of the majority. Furthermore, they argue that the measure is really a smoke screen for the alcoholic-beverage industry, which wants to use this measure as a back-door way to kill Proposition 134 — the alcohol-tax measure — also on the November ballot.

137 INITIATIVE AND REFERENDUM PROCESS

A constitutional amendment that will require that any changes in the initiative or referendum procedure be submitted to the voters for approval.

Background: The state constitution gives Californians the right to submit proposed laws or changes in the constitution directly to the voters by petition through the initiative process, and to challenge laws approved by state and local governing bodies through the referendum process. State and sometimes local law currently determines the rules under which this petitioning takes place, including the form of petitions, the number of days for gathering signatures and the procedures for verifying signatures.

The use of the initiative process has grown greatly in recent years, with record numbers of measures qualifying for the ballot. The creation of firms that specialize in gathering signatures has made it easy for any group with substantial financial resources to qualify their measure for the ballot. There were, for example, five competing measures dealing with insurance on the November 1988 ballot.

Proposal: This measure would prohibit any changes in the initiative or referendum procedure without the approval of the electorate.

Arguments for: Proponents for Proposition 137, which was sponsored by Joel Fox of the Howard Jarvis Taxpayers Association and Richard Gann of Paul Gann's Citizens Committee, argue that the initiative process is "people's law" and that only the voters should be allowed to change it. They fear that the Legislature will make the process more difficult to use.

Arguments against: Opponents of this measure — including officials from several employee unions, retired Judge Bruce Sumner, who was once the chairman of the state Constitution Revision Commission, and former Fair Political Practices Commission Chairman Daniel Lowenstein — argue that the initiative system is in need of reform. They say that special interests have taken control of the process, placing before voters complex measures that promote their own interests. Furthermore, they say that legislation is needed that will force more disclosure of who is behind initiatives, and that this measure is merely an attempt by proponents to maintain their own role in the political system.

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138 FORESTRY PROGRAM. TIMBER HARVESTING. BOND ACT.

An initiative statute to modify the way the state grants permits for timber cutting, would prohibit the state from forcing timber owners to sell their property for a 10-year period and would call for the sale of $300 million in bonds for forest restoration on public and private land. (See also Propositions 128 and 130)

Background: There are currently some 19 million acres of forests in California that can be logged. Of this amount some two million acres are in parks, wilderness and other areas where logging is prohibited. Nine million acres are owned by the federal government and administered through the United States Forest Service. The California Department of Forestry controls logging on some eight million acres, owned both privately and by the state. About 1.7 million acres are redwood forests, and some 208,000 acres of these are virgin forests that have never been logged. Before any of this property can be logged, a timber harvesting plan must be submitted to the department for approval. There is a growing controversy about the rate at which the state's forests are harvested and about the effects of cutting the state's dwindling virgin forests. There have been a number of lawsuits, as a result of these concerns, which have curtailed logging activities in the state.

Proposal: Proposition 138 is the timber industry's answer to the provisions in Proposition 130. It would require industrial timber companies — those with more than 5000 acres — to prepare a long-range timber management plan that would cover all of their property rather than the individual pieces of property that are required under the current timber harvesting plans. The new plan, which includes a wildlife-management plan and an analysis of the impacts from implementing the plan, would be good indefinitely, while current plans expire after three years. In addition, the measure prohibits the clear-cutting in any privately owned forest, but would allow cutting of these lands under the existing rules of the Board of Forestry, which allow all trees on a parcel to be cut over a three-year period. The measure also requires the state to conduct studies of the effects of forests on gases that might contribute to changes in climate. It also calls for the sale of $300 million in bonds that could be used for loans and grants to owners of less than 5000 acres of timberlands to help them improve production, and for grants to public agencies for urban forestry and the restoration of forest lands. The measure also prohibits the state from buying any redwood timberlands unless the owner agrees to sell. The legislative analyst estimates it will cost the state's general fund about $22 million per year for 20 years to pay for the bonds contained in this proposal.

Arguments for: This is the measure backed by the timber industry and an alternative to provisions contained in Propositions 128 and 130. The backers say it is a reasonable approach to regulating the harvesting of timber in the state. They say it will eliminate clear-cutting of trees and require big timber companies to adopt long-range plans that will ensure more trees are planted than will be cut. The state's timber laws are already the strictest in the nation and this measure will protect the environment while protecting the jobs of those in the timber industry and ensuring a supply of low-cost lumber and forest products for housing and other uses, backers maintain.

Arguments against: This measure is opposed by environmental groups such as the Sierra Club, National Resources Defense Council, Wilderness Society and the Planning and Conservation League. Opponents argue that the measure will do nothing to restrict the cutting of forests and, in fact, eliminates some important protections by allowing large timber companies to substitute a single long-range plan for the currently-required timber harvesting plans. The clear-cutting ban in the measure won't work since it allows all trees in a tract of land to be cut down over a three-year period. In addition, they argue that the bond provisions of the bill will require taxpayers to subsidize private timber companies.

139 PRISON INMATE LABOR. TAX CREDIT.

A constitutional amendment and statute to allow state prison and local jail officials to contract with private organizations for the use of inmate labor and to give a tax credit to those businesses that employ prison labor.

Background: Governor George Deukmejian long has advocated allowing businesses to contract with the Department of Corrections and with local jails for inmate labor. On several occasions he has sought legislation to authorize these labor arrangements, but his bills have been defeated by the Legislature. As his final term as governor wound down, however, Deukmejian opted for an initiative to accomplish his goal.

Some inmates now work in prisons, making license plates and furniture for state and local government offices or performing maintenance and support services for the prisons themselves. These work programs are designed to keep inmates busy, help defray the cost of imprisonment, provide job training and allow inmates to earn incentives for good behavior that often lead to early release. Current law, however, prohibits contracting with private entities for the use of prison labor, and products made by inmates may only be sold to state and local governments. But there are not enough jobs to keep all inmates busy.

Proposal: Proposition 139 allows state prison and local jail officials to contract with private organizations for the use of inmate labor. Those contracts would be governed by regulations devised by the director of the Department of Corrections, or by local ordinances.

The Department of Corrections would enter into joint ventures with business, or with public and private organizations that want to employ prisoners. A Joint Venture Policy Advisory Board is set up to govern the entire program. The board would be made up of the director of Corrections, director of the Employment Development Department, and five gubernatorial appointees representing labor, industry and the public.

Companies that participate in the program would be allowed to lease property on prison grounds at or below market rates, while products and services produced by the programs would be available for sale to the public. Inmates must be paid wages comparable to those paid to those outside of prison for the same work. However, Corrections may deduct up to 80 percent of those wages for taxes, room and board, contributions to a victim-restitution program and inmate family support. Companies may not use prison labor to replace striking workers, however.

Finally, the measure provides state income-tax incentives in the form of tax credits for businesses. Companies would be allowed a credit of 10 percent of the amount of wages paid to each inmate. In other words, for every dollar paid to an inmate, an employer may reduce business income taxes owed to the state by 10 cents. This credit applies only to inmates from state facilities — not from local jails.

Arguments for: Governor George Deukmejian explains that taxpayers currently pay $20,000 per year to maintain a convicted criminal in prison — $2 billion per year for 95,000 inmates. The governor argues that Proposition 139 would save taxpayers money because inmates would pay for their room and board and to compensate victims, and because prisoners would learn better work habits and job skills that make them less likely to commit other crimes after release. Inmate labor will not take jobs away from honest Californians but will supply workers for emerging industries and retain jobs now being exported overseas. The governor argues that law-abiding citizens now work and pay taxes while criminals get a free ride.

Arguments against: Opponents — led by John Henning of the California Labor Federation and Albin Gruhn of the AFL-CIO — claim that Proposition 139 would eat up more in administrative costs than it would earn for the state. By giving

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inmates jobs, Proposition 139 would worsen an already high level of unemployment among minority youth. It would also pose a security risk to society by either allowing some inmates to work outside the confines of jails and prisons, or by giving inmates access to personal information about ordinary citizens through jobs like processing plane reservations for airlines. The program also discriminates against ordinary workers because, although prison labor must earn a prevailing wage, employers are not required to provide them with benefits like medical insurance, thereby making the cost of prison labor substantially less expensive.

140 TERMS OF OFFICE. LEGISLATORS' RETIREMENT. LEGISLATIVE OPERATING COSTS.

A constitutional amendment to limit the number of terms an individual may serve in the same office, regulate retirement benefits for former legislators, and limit total expenditures by the Legislature for salaries and operating expenses. (See Proposition 131)

Background: Proposition 140 was placed on the ballot by Los Angeles County Supervisor Pete Schabarum — a conservative Republican and former member of the state Legislature. Although similar to Proposition 131, the Schabarum initiative is considered by state lawmakers more draconian, especially provisions limiting the number of terms an elected official may serve. Proposition 131 limits the number of *consecutive* terms; 140 limits the number of terms, period. For instance, under Proposition 131, an assemblyman would be able to serve six consecutive terms, or 12 years, sit out a two-year term, then serve six more consecutive terms. Under Proposition 140, however, that assemblyman would be able to serve only three terms or six years. After serving those terms, he would be forever ineligible to run for the Assembly.

Currently, there are 132 elected state officials: 120 legislators and 12 constitutional officers (governor, lieutenant governor, secretary of state, attorney general, controller, treasurer, superintendent of public instruction, insurance commissioner and four members of the Board of Equalization). At present, they may serve for an unlimited number of terms. Thanks to Proposition 112 (June 1990), their salaries and non-retirement benefits will be set by a commission. Most state elected officials participate in both federal Social Security and the Legislators' Retirement System, which is supported by contributions from participating officials and from the state.

The money the Legislature annually spends on it own operations is appropriated in the annual state budget. Traditionally, the governor does not tamper with this portion of the budget.

Proposal: Proposition 140 seeks to accomplish three goals: Limit the number of terms a state elected official may serve in the same office, prohibit legislators from earning state retirement benefits from their future service in the Legislature, and limit the amount of money the Legislature may spend for salaries and operating expenses.

Term limits vary with the office and apply to state officials elected on or after November 6, 1990.

- Elected to no more than two four-year terms in the same office: governor, lieutenant governor, secretary of state, attorney general, controller, treasurer, superintendent of public instruction, members of the Board of Equalization and members of the state Senate (senators who run for reelection in 1992 may serve only one additional term);
- Elected to no more than three two-year terms in the same office: members of the state Assembly.

Proposition 140 also bans current and future legislators from earning state retirement benefits from their service in the Legislature on and after November 7, 1990. Retirement benefits earned prior to that date may be retained. Legislators must participate in the federal Social Security System. The state may only pay the employers' contribution to participate in the federal system.

Finally, Proposition 131 limits the amount of money legislators may spend for operating expenses and employee salaries. Beginning with the 1991-92 fiscal year, these expenditures are limited to the lower of two amounts:

- a total of $950,000 per member, or
- 80 percent of the total amount expended in previous years for these purposes.

Annual growth in the Legislature's budget would be limited to the percentage change in the state appropriations limit. The legislative analyst estimates that the cut in the Legislature's budget would save the state about $70 million during the first year.

Arguments for: Supervisor Schabarum argues Proposition 140 will put an end to a Legislature composed of a small elite of career politicians who hold enormous power over the lives of other Californians. It will also reduce spending and cut back on the more than 3000 staffers who serve the Legislature, saving taxpayers over $60 million in the first year alone. The measure will also end what he called "extravagant pensions" that sometimes pay a legislator more in retirement than he or she earned while in office. Placing limits on the number of terms an official may serve, Schabarum argues, will create more competitive elections, end the ingrown political nature of both houses, reduce the influence of special interests and eliminate the huge political slush funds available to legislative leaders.

Arguments against: The ballot argument against Proposition 140 is signed by Dr. Regene Mitchell of the Consumer Federation of California, Lucy Blake of the League of Conservation Voters and Dan Terry of the California Professional Firefighters. But the effort to defeat Proposition 140 will be spearheaded by legislators, through their legislative leadership. Opponents argue that Proposition 140 limits voters' right to choose and that it capriciously bans people from serving more than a set number of terms in office. The measure, they argue, does not allow exceptions for merit, or for statewide emergencies, and treats the competent and the incompetent the same. They also say that the measure's retirement regulations favor the rich, who do not need a legislative retirement system, and hurt ordinary citizens who may want to serve in public office but do not have the financial wherewithal. Speaker Willie Brown Jr. also argues that measures that limit the number of terms and cut back on legislative staff and resources actually enhance the power of special interests that remain on the scene as legislators come and go.

141 SAFE DRINKING WATER. TOXICS.

A proposed legislative amendment to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

Background: In November 1986 voters passed Proposition 65 which, among other provisions, prohibited businesses with 10 or more employees from knowingly discharging or releasing specific carcinogens or toxicants into any source of drinking water, unless the business could show that the amount discharged was below a certain standard. Those businesses were also prohibited from knowingly or intentionally exposing someone to the listed chemicals without proper warning. The list itself was to be published by the governor and to include chemicals known to cause cancer or toxic effects on human reproductivity. Proposition 65 also established penalties for violating its provisions. The initiative, however, did not apply to local, state or federal governmental entities or to operators of public water systems.

Proposal: Proposition 141 extends the provisions of Pro-

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position 65 to public water systems, and to most local, state and, where possible, federal agencies. Some governmental and public agencies will still be exempt, however, including:

- sewage treatment facilities owned and operated by public agencies;
- public agencies or public water systems that expose persons to Proposition 65 chemicals because of a public emergency response or of discharge chemicals added to drinking water for public health reasons, or that are present in watershed runoff or are not put into the water by the water system itself; and
- agencies that discharge or release chemicals into storm water runoff, as part of an activity governed by federal law, or as a public emergency response.

The legislative analyst estimated that Proposition 141 would cost the state general fund in excess of $1 million as state agencies try to comply with the measure. Local agencies would also incur major costs but could not be reimbursed by the state since Proposition 141 does not mandate a local program.

Arguments for: Proposition 141 was authored by independent state Senator Quentin Kopp of San Francisco, and is supported by Democratic Assemblyman Lloyd Connelly of Sacramento and by Richard Gann of Paul Gann's Citizen Committee. They argue that Proposition 65 creates a double standard, forcing business to comply with strict provisions while exempting governmental agencies. They say that public agencies should be held as accountable as business when it comes to protecting drinking water and employees from the effects of carcinogenic and toxic chemicals. They also argue that Proposition 141 is flexible enough to allow water systems to pass through chemicals that enter the system from another source.

Arguments against: Opponents are led by Stanley Sprague, chairman of the California Water Resources Association, Le Val Lund of the Association of California Water Agencies, and John Gaston of the American Water Works Association. They say that Proposition 141 is a ploy by major industrial polluters to make enforcement of Proposition 65 difficult and to shift attention from themselves. Public water systems were not included in Proposition 65 because the federal and state agencies already require them to meet all drinking water standards and to provide yearly reports to customers about the quality of their water. They also argue that Proposition 141 would make it difficult to chlorinate water and could result in water shortages during severe droughts. For instance, they claim, without chlorine to keep public pipelines and canals free-flowing, some systems could lose up to 10 percent of their capacities.

Note: As of August 22, 1990, the Legislature was considering, but had not passed, between eight and 11 bond measures for the November election. Should lawmakers approve some or all of these bonds, they would appear on the ballot, beginning as Proposition 142. California Journal *will analyze the bonds in our October magazine, but the entire ballot booklet will be available as a reprint as soon as the bond measures are approved by the Legislature and assigned a number by the Secretary of State.*

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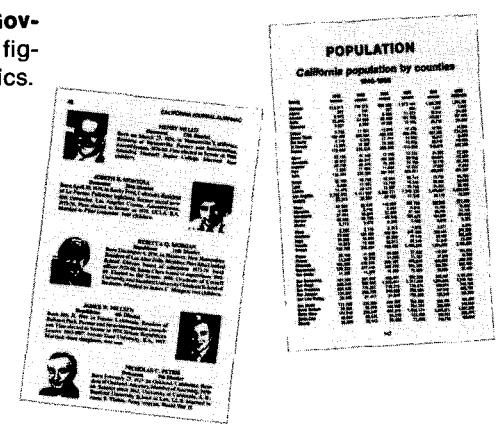

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Continued from page 428

cal promises that he cannot deliver alone. "As attorney general, I will commit the resources that law enforcement needs to stop the rampant and appalling drug use in our state," said Smith in July, skirting the fact that it is the governor and the Legislature holding such purse strings — not the attorney general.

But in Lungren, Smith may have found an opponent more willing to exploit his liabilities.

Zig-zagging like a destroyer fleeing a torpedo, Smith has had trouble defending his record as district attorney of San Francisco. His conviction rate consistently has been the lowest, or second to the lowest, among the 10 most populous counties in the state. Smith points out that his county makes wider use of drug-diversion programs than most, which dampens his conviction rate. More to the point than conviction rates, he argues, is that crime has fallen in San Francisco during the period he has been district attorney (a boast that Democratic gubernatorial candidate Dianne Feinstein may have more business making since the statistic may have more to do with police budgets and gentrifying neighborhoods).

Smith also weathered criticism in the early 1980s from the San Francisco Bar Association for being a poor administrator. He also offended Feinstein on several occasions, most notably when he and his top assistant had to be escorted from a bar by police officers after a drinking spree. She sent him a letter of reprimand and has long kept her distance.

Most damaging of all, in Lungren's view, is how Smith has played politics with the power of the district attorney's office. Voters statewide will hear much from Lungren this fall about the "Ballpark Five," a case heretofore of interest only in Sacramento and the Bay Area.

The case stemmed from San Francisco Mayor Art Agnos' unsuccessful attempt to win ballot approval in 1989 for building a new baseball stadium for the Giants. A last-minute hit-piece mailing against the stadium brought cries of foul from Agnos. At the urging of Agnos, Smith began investigating. The masterminds of the mailings turned out to be a Sacramento developer Gregg Lukenbill, his assistant, and three political consultants — one of whom was also working for Smith's attorney general campaign. Smith fired his consultant and convened a grand jury.

The grand jury returned indictments against all five, but they were misdemeanors — hardly the stuff of major league political corruption. The first judge to review the charges threw them out, saying that no laws had been violated.

"We pursued that case because from the outset there were violations of the law," Smith has insisted. "At the time the mayor's staff called and I had an investigator go out there .... It was clear there were 100,000 pieces of literature distributed. You don't do that without spending money."

But Lungren, with characteristic overkill, charges that Smith brazenly played politics with his prosecutorial powers in the ballpark case by bending to Agnos' will. "That case is one of the worst cases I have seen of abuse by a prosecutor in recent memory," says Lungren. "If Arlo Smith can't resist, as district attorney of San Francisco, the pressure from Art Agnos in terms of politicizing a prosecutorial office, how is he going to assure us he's going to resist Willie Brown and others of the Democratic leadership?"

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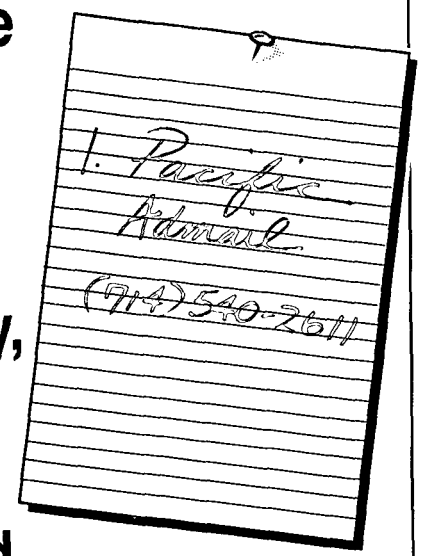

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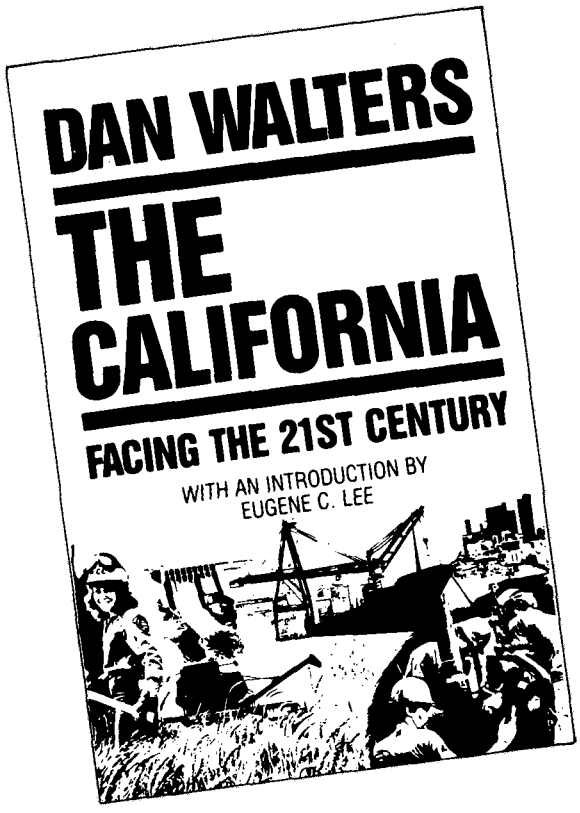

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BALLOT FRONT

A roundup of statewide initiative proposals. All statutes require 372,178 valid signatures; constitutional amendments require 595,485. In parentheses are the deadlines for sponsors to submit signatures to county clerks, and the issue of California Journal *that contains a full explanation of each measure. The full texts of all initiatives may be obtained from the Secretary of State's election division, 1230 J Street, Sacramento CA 95814.*

New in circulation:

STATE OPERATED AUTOMOBILE INSURANCE. AUTO CLAIMS. ADMINISTRATIVE COURT — an initiative statute, sponsored by Voter Revolt members Angelo Paparella, Rob Lavis, Bill Zimmerman and Proposition 103 sponsor Harvey Rosenfield). If enacted, the measure would replace the current private auto insurance system with a state-administered program. The state system would be implemented if the insurance commissioner determined that the average private premium equaled or exceeded the rollback level mandated by Proposition 103, or if the number of uninsured vehicles exceeded 15 percent. Among other provisions, the measure would also regulate attorney fees in auto-accident cases. This is proponents' third attempt to qualify this initiative. (December 13th)

Continuing in circulation:

TRIAL BY JURY, INSTRUCTIONS — an initiative constitutional amendment, sponsored by Marion McEwen and Wayne Nygren of Hayward. (August 13th, May 1990 *CJ*)

ALIEN LAND OWNERSHIP — an initiative constitutional amendment, sponsored by Mark Peters of Glendora. (August 17th, May 1990 *CJ*)

PEST ERADICATION — an initiative statute, sponsored by Democratic state Senator Art Torres and Patricia Prickett of Hacienda Heights. (September 7th, May 1990 *CJ*)

PRIVATE PROPERTY, COMPENSATION FOR PUBLIC USE — an initiative constitutional amendment, sponsored by Thomas Herman of Crescent City. (September 11th, May 1990 *CJ*)

PESTICIDE REGULATION AND APPLICATION — an initiative statute, sponsored by Oscar Singer of Los Angeles. (September 11th, May 1990 *CJ*)

FIREARMS REGULATION — an initiative statute, sponsored by Kevin Patterson of Camino. (September 20th, June 1990 *CJ*)

STATE ADMINISTERED AUTOMOBILE INSURANCE, AUTOMOBILE CLAIMS COURT — an initiative constitutional amendment, sponsored by Carmen Gonzalez and Angelo Paparella of Los Angeles, Rob Lavis of Oakland, Bill Zimmerman of Topanga Canyon and Proposition 103 author Harvey Rosenfield of Santa Monica. (October 18th, August 1990 *CJ*)

WORKERS, VACATION — an initiative constitutional amendment, sponsored by Richard Such of Palo Alto. (October 22nd, August 1990 *CJ*)

Failed to Qualify:

STATE OPERATED AUTOMOBILE INSURANCE. AUTO CLAIMS. ADMINISTRATIVE COURT — an initiative constitutional amendment, sponsored by Voter Revolt and its executive committee (including Proposition 103 sponsor Harvey Rosenfield). (April 1990 *CJ*)

CHILDREN'S SERVICES. APPROPRIATIONS. SURTAXES — an initiative constitutional amendment, sponsored by Bill Zimmerman of Santa Monica. (April 1990 *CJ*)

TIMBER HARVESTING. FORESTRY PROGRAM. BOND ACT — an initiative statute, sponsored by Wesley Higbie of the Timber Association of California in San Mateo. (April 1990 *CJ*)

PRESIDENTIAL PRIMARY — an initiative statute, sponsored by Democratic Assemblyman Mike Roos of Los Angeles. (April 1990 *CJ*)

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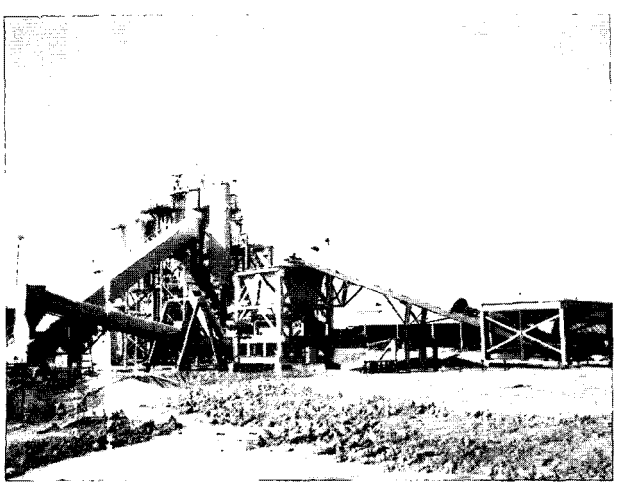

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Bergeson

Two good but a pet

By R

By all rights, the race for lieutenant governor should be straight out of the political-science textbooks. After all, both major parties have nominated attractive, intelligent, experienced, competent and well-intentioned candidates. Both have substantial records of public service, and the philosophical differences that separate them would give voters a clear choice.

So how come Democrat Leo McCarthy and Republican Marian Bergeson have already spent most of their time arguing over who said what and when, and which is the more likely to be appropriately subservient to the next governor, no matter who he or she might be?

And this early carping is likely to be the pleasant part of the campaign.

Part of the problem lies in the office itself. The assigned duties of the job are few. The lieutenant governor is supposed to preside over the state Senate, but by tradition never does. Should there be a tie vote, the lieutenant governor could cast the tie-breaker. But again, Senate rules make that event extremely unlikely. He or she would serve on a couple of boards and commissions, probably the most important being the State Lands Commission, which has considerable say over drilling of oil off the California coastline. So, there just isn't a whole lot to build an interesting campaign around.

But the rest of the problem rests with the way statewide contests for minor offices are conducted in California. The candidates can't raise enough money to get much of a message across. And what television you can afford runs the risk of being drowned in a sea of commercials for governor or one of the myriad initiatives on the ballot. Purveyors of free media seem to care only when one of the contenders is

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McCarthy

ndidates, campaign

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accused of some misdeed, real or imagined.

As a result, the campaigns tend to focus on the quirky, the single mistake, past or present, that will bring an opponent down.

It can lead, for example, to debate about who will be the best behaved when the governor is out of the state.

The state constitution provides that the lieutenant governor will become acting governor — with full authority to act — any time the real governor passes across the state border. But here again, tradition commands that this power not be used without the governor's permission. In times past, when the governor and lieutenant governor were from the same political party, the governor would occasionally leave a minor bill for the lieutenant governor to sign.

But during the past 12 years, the governor and lieutenant governor have been from different parties. And the one time a lieutenant governor took matters into his own hands, it raised a political fuss that damaged his career. Mike Curb, acting as governor when Governor Jerry Brown was out of state, made his own appointment to the state court of appeal. The appointment came complete with a keystone cops chase to certify the appointment before Brown passed back into California air space. When he got back, Brown rescinded the appointment, and Curb looked like an immature fool.

In his eight years as lieutenant governor under Republican George Deukmejian, McCarthy has made sure that he could not be accused of making a similar mistake. He has carefully avoided acting without Deukmejian's permission during the some 50 times the governor was out of the state. And the one time McCarthy was in the limelight as acting governor, during the San Francisco earthquake last Octo-

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ber, he was generally praised for the way he took command of the state's emergency response.

Although in every other respect, Senator Marian Bergeson of Newport Beach is considered a paragon of the responsible politician, she hasn't actually had to serve as a governor's understudy. And that leaves a little room for Leo McCarthy to raise some questions. He has implied that Bergeson might not always be as cooperative as he has been. And he sets this issue in the context of a potent issue dividing the two — their differences on the question of abortion rights.

McCarthy points to an ambivalent Bergeson response on a radio talk show about what she would do if a bill dealing with abortion came to her desk while she was acting governor. Bergeson is anti-abortion, while McCarthy and the two major party gubernatorial candidates — Dianne Feinstein and Pete Wilson — both support abortion rights.

Bergeson insists that she would defer to the governor's wishes should a bill come to her while she is acting governor. But if as lieutenant governor she had the chance to break a tie vote, she would vote her own conscience.

"I've been a committee chairman under a majority leadership of another party, and I've always worked in a way that I thought would be constructive. And I don't intend to change my style. If the governor is Dianne Feinstein, the governor will be the one who sets the policy. I still have a right to opinions, but in no way would I jeopardize what I consider to be solid working relationships," said Bergeson. "I would not violate the role of the governor. If I were lieutenant governor, and I had the vote, I would vote my conscience."

Still, McCarthy can be expected to bring up the issue often because it not only raises the "Mike Curb" image of a lieutenant governor run wild, but it emphasizes his differences with Bergeson on the abortion issue.

And McCarthy may have to work to make it clear that he is the candidate who sides with the majority of the state's voters on this issue. If the results of the primary are any guide, voters seem to believe that it is the woman candidate who favors abortion rights and the man who wants to curtail those rights, regardless of their actual positions. Exit polls showed that was the case in Bergeson's primary campaign against fellow Orange County Republican John Seymour of Anaheim. The polls showed that a majority of the voters in the Republican primary favored retaining abortion rights, but that these same voters preferred Bergeson.

Bergeson believes that the voters were not mistaken, that they selected her anyway because of her steadfastness on the abortion question. Last fall Seymour announced that he had switched his position and was now in favor of retaining abortion rights for women. Bergeson believes voters were turned off by that sort of flip-flop. "They look more upon the consistency of the candidate," she said.

And she's prepared to try to take that tack against McCarthy if he persists with the issue, bringing up some old instances that she says provide evidence McCarthy wasn't always a staunch abortion-rights vote. She cites, for example, a questionnaire that McCarthy filled out for the California Pro Life Council in 1980, saying he favored restrictions on abortion, as will as a vote he cast on the subject.

But McCarthy answers that although there was a time when he was less decisive on the issue, his position on abortion rights has been clear for the past 10 years.

Bergeson finds a certain irony in the fact that McCarthy is trying, in this year when women are so prominent on the political scene, to be the women's candidate.

"It's almost as if he's trying to run a 'Toosie' campaign. He's trying to appear more like a woman than I am," she offers, referring to the movie where Dustin Hoffman portrays a man trying to pass as a woman. "I'll hold up my record on issues that are important to women."

Indeed, if the candidates wanted, there is much in their own records that could be emphasized.

McCarthy served 14 years in the state Assembly, including six years as its speaker, and during that time established a substantial record of legislative achievement. He has even managed to make something of the lieutenant governorship despite the fact that the governor is from a different political party. His office has produced major studies on the problems of women in the work place, nursing homes and, most recently, on the dangers of off-shore oil spills.

Bergeson, too, has much for which she can claim credit. She spent six years in the Assembly before being elected to the Senate in 1984. A former teacher and school board member, she has become an expert on education. But her most lasting legislative achievement is probably as author of the bill that indexes the state's income tax and keeps taxpayers from being forced into higher tax brackets because of inflation. She is a dedicated lawmaker who last month missed having her picture taken at her daughter's wedding because she had to return early to Sacramento to vote on the state budget. She believes that the office can become a forum for developing new policy ideas on economic development and education.

Still, in a low-budget campaign where television commercials will probably have to be made in advance and where the candidate will have little time and fewer resources to respond to an attack, the temptation to go for the quick hit may be overwhelming.

McCarthy believes that the greater burden will be on Bergeson to make the case for turning out an incumbent. "I think they're hard pressed. I think you'll find them searching through newspaper stories for the last decade and finding one newspaper story where I got zapped on something and try to pick that up and make a 30-second TV spot out of it. I may not even know what's coming," notes McCarthy.

Bergeson, of course, will try to turn the incumbency against McCarthy, accusing him of holding the office only because he still yearns for higher office.

McCarthy, who unsuccessfully ran for the U.S. Senate against Pete Wilson two years ago, doesn't deny that he would move up, if he had the chance.

"If the question is, would I prefer being governor or U.S. senator, the answer is 'yes.' But there is really plenty in the lieutenant governor's job to keep you productive," notes McCarthy.

But Bergeson, too, doesn't deny that she would be willing to move on, if the chance arose. In fact, no one who holds or covets the job does so with the notion that it will be a career-capper. In the past candidates for lieutenant governor snuggled as close as they could to their party's nominee for governor, running on the notion that they would be good teammates (and possible successors) to the winning candidate.

But now, despite protests from all the candidates, Leo McCarthy can expect little help from Dianne Feinstein, and Marian Bergeson likely will get no more from Pete Wilson.

That leaves them with the need to attract as much attention as they can on a very crowded political landscape. Alas for the textbooks, this often means that the candidate who yells loudest gets the most notice.

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TOWARD A SAFER ENVIRONMENT

More care taken with toxic waste

By Michaela Jarvis

Over the past 15 years Californians have learned the hard way about hazardous waste. Citizens exposed to certain waste chemicals have experienced everything from respiratory problems to deadly cancers. State government has found itself entangled in the cleanup of massive brews of poisons leaking into the ground we build on and the water we drink. Industry has learned that the staggering cost of properly disposing of dangerous wastes is actually small, compared to the costs associated with cleaning up wastes that have been left to foul the environment.

What are we doing to prevent a replay of hazardous wastes' economic, environmental and human tragedy? Are we handling California's annual eight-and-a-half million tons of toxic wastes more rationally?

By many accounts we are, although the situation is constantly complicated by qualifications. Jeff Scott, who works in the San Francisco office of the federal Environmental Protection Agency, is encouraged by progress made during the last decade.

"The difference between now and before is more stuff is being treated, and less is going to land disposal," Scott said. "Also, less waste is being produced. Major generators are creating less waste. I've been in this since 1983, and that's the big picture. I think that now Superfund [major toxic contaminations] sites are not being created like they once were."

In 1980 there were 11 "Class 1" toxic-waste dumps in the state of California — dumps that accepted the most danagerous chemicals. Today there is only one — in Kettleman Hills — and two more restrictive dumping sites. As federal and state toxics officials are quick to point out, fewer dumps indicates better scrutiny of the dumping process and more selectivity in locating the facilities — generally translating into less risk to the cleanup jobs of the 1980s and '90s.

Continued on next page

Michaela Jarvis is a freelance writer from San Francisco and a frequent contributor to California Journal.

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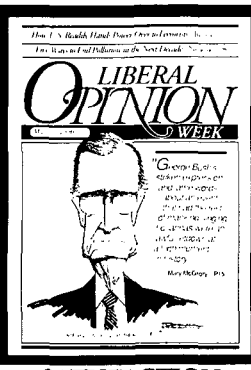

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"This is where government regulation worked," said Scott. "We stopped people from disposing of hazardous wastes where it could be dangerous. I think that the regulatory controls on the operation of the existing facilities are immeasurably greater than 10 years ago. There's just no comparison."

The volume of toxic waste being dumped has not, however, diminished as significantly as has the number of dumps. According to state officials, the total volume of hazardous waste being put in the ground went down about 40 percent between 1984 and 1988. (The one remaining Class 1 dump, Kettleman, is huge; it has space for about five million tons of hazardous wastes, or six years' worth of daily deliveries from about 120 trucks containing 35,000 pounds of hazardous wastes.) Industry is turning away from land disposal because its price has gone up (dumping that was once $10 per ton cost $240 per ton in 1987), dumping has become more restrictive and, most important, many companies no longer are willing to take on the long-term liability of having to help finance a future cleanup of the dump if it leaks.

"All landfills leak," says Mike Belliveau of Citizens for a Better Environment. "Companies could be held liable for tens of millions of dollars somewhere down the line."

About 45 percent of commercially handled hazardous wastes in California is somehow recycled, with part or all of its components or energy values used in the same processes in which they were generated or, more often, in processes requiring less-pure materials. The state hosts 32 commercial treatment and recycling facilities. Except for oil, which now makes up about 30 percent of commercially recycled hazardous wastes, the percentage of wastes that gets recycled has remained stable for about the past six years.

"The amount of recycling occurring hasn't increased as much as we had hoped," said Jan Radimsky, head of alternative technologies for the state's Toxics Substance Control Program, "other than in the oil-recycling areas. That's one of the areas where we've made big increases — because of enforcement."

"Enforcement" is one of the issues in dealing with hazardous waste where environmentalists and government generally differ. Industrial waste reduction, which some say could easily cut the total waste stream by 40 percent, is not required by law. Generators of hazardous wastes are now required to review possible waste minimization in their industrial processes, and a state Senate bill has proposed funding and personnel to direct these efforts, but industry is held to no specific standards.

"We're developing a better basis for seeing how industry can be better regulated," said Radimsky, "but we need more information. At the moment, we have a limited basis on which to proceed, but the data-gathering is proceeding apace. You can always wish it were faster, but it can't be done instantly."

"The fundamental question is, just precisely where in the production process does government intervene?" said Arnold Peters, who is on the staff of the Assembly Environmental Safety and Toxics Materials Committee. "Government would be dictating the design of a production process. Many people aren't sure government is capable of doing that."

But environmentalists say the amount of hazardous waste must be reduced and some wastes eliminated from use altogether. The "Big Green" initiative, which will be on the state ballot in November, would do just that by imposing a series of deadlines after which certain waste chemicals would be banned (see the Ballot Booklet in this issue).

"The initiative becomes technology-forcing," said Belliveau. "The deadlines will get industry to find ways to embrace pollution prevention. Regulators are now stuck in this more traditional pollution-control mentality, rather than pollution-prevention."

(California's "Big Green" initiative drew unprecedented federal attention in July when a U.S. trade representative, concerned that the initiative's bans on carcinogenic pesticides would make on-going international agricultural trade agreements less viable, asked a presidential trade commission to investigate it.)

Industry may need stronger incentives to innovate on the hazardous waste front. Industry and government sources agree that companies could save considerable amounts of money with improved waste-handling and minimization techniques, but many small and medium-sized companies are unable or unwilling to come up with the initial investment to develop such techniques. There are currently no brand-new hazardous-waste technologies being put into use on a large

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scale, according to government, industry and environmental sources.

"Quite frankly, the major handling of wastes has not changed much in the past few years. Some new methods look good on paper, but they don't make it commercially," Radimsky said. "Regulations have been better specified, but there's nothing significantly different being done now than in the past."

One waste-treatment method being pushed by federal and state government as the "best demonstrated available technology" is incineration, a method loathed by environmentalists who consider it "dirty" because they say it contributes to air and water pollution. Although there are nine private, on-site incinerators permitted by the state, only one commercial hazardous-waste incinerator operates in California — a cement kiln that uses certain wastes for fuel. According to state documents, nine more were tentatively proposed in March 1989. Three are currently well along in the permitting process.

Federal laws were passed in 1984 requiring that wastes be partially detoxified or solidified before they are dumped. As implementation deadlines on those laws come due — and in a concurrent development, states are required to map out how they will handle their hazardous wastes for the next 20 years — the pressure builds for new incinerators.

"The state has to show how it's going to deal with waste generation in the future, using the best demonstrated available technologies," said the EPA's Scott. "For some chemicals, incineration is the best treatment available. I don't think that's really debatable."

"Otherwise, it goes to land disposal," said Radinsky. "Obviously a perfect solution is you don't generate any waste. Incinerators typically don't leave much residue — except the ashes, which are a minute fraction of what goes in."

Belliveau argues that incineration "merely transforms the toxic wastes into air pollution and a reduced amount of solid waste."

State and federal environmental officials dispute this. They say that incineration allows negligible amounts of pollutants into the atmosphere and that demonstration projects show these are well within federal limits.

"The state Department of Health Services and the EPA have become avid proponents of anything that keeps the waste out of the ground, including incineration, which industry supports because the pollution it creates is diffuse and untraceable, and therefore not a potential liability," said Belliveau. "State and federal environmental health officials have actively supported the creation and growth of a waste management industry when their primary mission should be waste elimination. By avidly promoting incineration, government officials are creating a disincentive to work hard at reducing and eliminating toxic chemicals."

Belliveau points out that government is lobbied heavily to soft-pedal industrial waste reduction. "There are certain vested interests who profit from the status quo, from industry being wasteful," he said. "Chemical manufacturers, for instance — the more chemicals industry wastes, the more they buy. And the multi-billion dollar waste-management industry — there's lots of money to be made burning, dumping and even cleaning up hazardous wastes. There's a whole profit treadmill that has to be disconnected. If we were concerned about the public health, then the waste-management industry would be shrinking rather than growing."

Some environmentalists take the extreme position that wastes whose only feasible treatment is incineration should be stored above-ground in impermeable structures until a better technology is developed. "Everyone realizes that there's nothing we can do to safely dispose of certain hazardous wastes," says Sarah Kennedy of Greenpeace. "Safe methods are just not viable right now, because the technology is not there. You can burn waste, bury it or inject it [deep into the earth by way of lined shafts]. You're dealing with poisons, and they get back to you."

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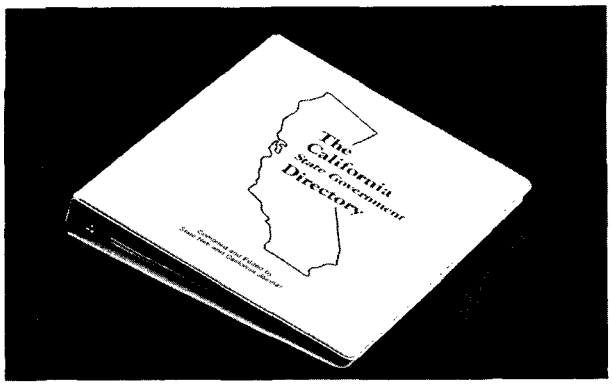

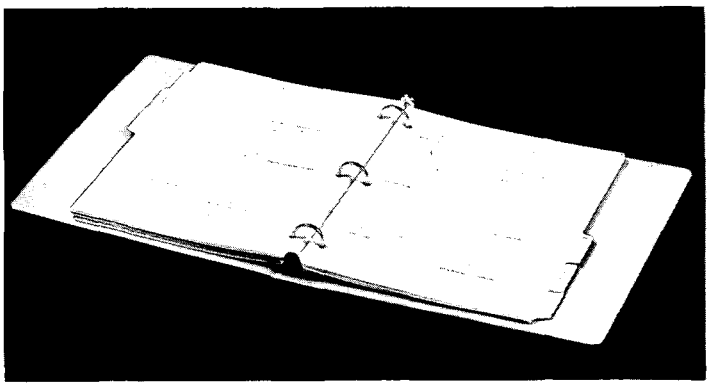

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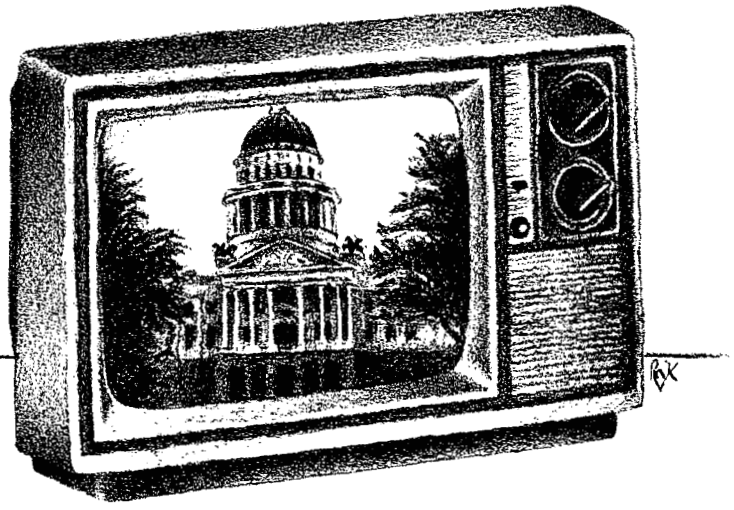

CAL-SPAN'S DEBUT

Lights, camera, — legislate

By David Sternberg

Move over, Geraldo. Watch out, Roseanne. The California Legislature is going prime time.

In the first phase of a project aimed at creating a public-affairs television network for California, state lawmakers have begun experimenting with live television broadcasts of their deliberations. Video cameras rolled into the Assembly chamber in mid-June to provide closed-circuit, gavel-to-gavel coverage of floor sessions. Two months later, the signal was released to a number of willing educational and public-access cable stations. If the pilot broadcasts prove successful, audiences across the state could be tuned into at least one of the two houses by the end of next year.

The presence of television crews has had little substantive impact on Assembly proceedings during its trial run, aside, perhaps, from a slight improvement in members' choice of neckwear. Fears about excessive glare from the camera lights were put to rest by the installation of scrims, and the novelty of having their every word captured on film seemed to wear off for most members rather quickly.

"After 10 minutes, I forgot that the cameras were even there," says Assemblyman Richard Floyd, a Gardena Democrat, who has vowed not to tone down his notoriously abrasive rhetoric for the sake of home viewers.

Floyd and others had expressed concerns prior to the first taping about the trivializing effect of television on legislative debates. 'Some people are going to worry about how everything plays," Floyd told *The Sacramento Bee*. "They'll stand up proudly and vote for National Cat Week, but are they going to have guts on something like abortion? Hell, no. They'll be hiding under their desks."

But since the Legislature's rules do not allow for special orders, long-winded speeches on minor topics have not become the staple they are on C-SPAN, the Congressional television network upon which California's project is modeled.

"Actually, I find that members have tried to become more succinct," says Assemblywoman Gwen Moore, a Los Angeles Democrat who is the head of an Assembly task force on televising the Legislature. "If anything, having the cameras around has speeded things up."

The Legislature's foray into the cool medium comes at a time when constituents are feeling more apathetic than ever toward their representatives in Sacramento. One big reason, politicians and media-watchers say, is the dearth of television news coverage of the Capitol. During the attention-grabbing governorships of Ronald Reagan and Jerry Brown, most large television stations in Los Angeles, San Francisco and San Diego maintained permanent news bureaus in Sacramento. But today, in the George Deukmejian era, none do, primarily for economic reasons. A 1987 study found that the most-watched news programs in five California metropolitan areas devoted a scant 1.7 percent of their news coverage to state legislative issues.

"It's pretty hard to get much enthusiasm up for people you never see," says University of Southern California communications professor Tracy Westen, co-author of a report proposing a California version of C-SPAN. "Most voters only know about their representatives at election time, and that's through commercials. We want to raise public consciousness of the Legislature and help improve its credibility."

Continued on next page

David Sternberg was a California Journal *intern.*

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Cal-SPAN, as the nascent network is called, would put the citizenry back in touch with the political process by airing call-in shows, interviews, news conferences and committee meetings, in addition to gavel-to-gavel coverage of floor sessions. The expectation is that increased exposure to the workings of state government will have the same salutary effect on voter participation in California that C-SPAN's programming has had at the national level.

Westen and report co-author Beth Givens cite statistics showing that C-SPAN viewers vote at almost twice the rate of non-viewers and contribute more to political campaigns. "They also report greater satisfaction with cable television," the researchers note with a tactful bow to their project's cable-industry sponsors.

But Cal-SPAN, presently based in Los Angeles, has not restricted itself to the support of the cable industry in its bid to make California the 39th state with some form of legislative TV programming. Among the 16 members of the network's board of directors are such diverse civic figures as Bank of America chairman A.W. Clausen, Kaiser Aluminum patriarch Cornell Maier and Cal State-Sacramento president Donald Gerth. Editorial endorsements for the project have come in from practically every major newspaper in the state.

Nevertheless, cable will be the locomotive that drives the Cal-SPAN train. Representatives of three of California's biggest cable firms, including San Diego-based Cox Cable, the nation's second-largest, sit on the board, as does industry lobbyist Dennis Mangers, a former Assembly member. Although Cal-SPAN plans to distribute its programming on public television in areas lacking cable, the cable systems' legally mandated public-access channels will bring the signal to most California households.

Cable operators will also be called upon to help foot the bill for Cal-SPAN. Costs are estimated at between $3.5 and $4 million for the channel's first year of operation, and close to $2 million per year thereafter. Much of the start-up expense is for the construction of a production studio in the Capitol and the purchase of a transponder for satellite transmission.

Paul Koplin, president of Cal-SPAN's parent organization, the California Channel, says that while the initial financing will come from corporate and foundation grants, per-viewer fees charged to cable systems will cover the bulk of the network's operating costs. "We're in the process now of signing up cable operators," Koplin says. The network expects to be paying for itself by the fourth year of operation.

For its part, the PR-conscious cable industry is optimistic about the venture, despite what C.J. Hirschfield, the California Cable Television Association's vice president for industry affairs, terms the "logistical difficulties" of creating a new channel from scratch.

"We'd love to see this happen," Hirschfield says. "It's yet another sort of thing we can offer our subscribers. But it's a tricky situation with our limited channel capacity. Do you pull off Black Entertainment Television to make room for the Cal Channel? These things need to be looked at."

Hirschfield's group is thus all in favor of Cal-SPAN's efforts to set up a hybrid system for transmitting the signal, involving not only public TV stations but cable channels that have broadcast time to spare.

The cable industry won't be alone in paying for Cal-SPAN. The star performers — the lawmakers themselves — will also have to chip in if it is to become a reality. Under the plan outlined by Westen and Givens, legislators would be responsible for producing the broadcasts of all activities within the Capitol. That means an initial expense of between $1.1 and $2 million to install remote-control cameras, plus anywhere from $440,000 to $860,000 annually to operate the equipment, depending on the amount of coverage.

In this summer of budgetary discontent, such an outlay would seem to be an easy target for cutbacks. As chairwoman of the Assembly Utilities and Commerce Committee, Moore herself went on the record last year as saying that no funds would be made available to start up new public organizations. But that was before Koplin's group came to town in September and impressed upon legislators the importance of reaching out to their constituents. With lawmakers' reaction to the $275,000 pilot project now running very positively, Moore and committee co-chairman, Democrat Sam Farr of Carmel, have started looking at a broader range of funding options.

One prime source is the $1.8 million per year the Legislature is no longer allowed to spend on constituent newsletters, thanks to the passage of Proposition 73 in 1988. Moore, asserting that "the general public has a greater benefit from TV than from a newsletter," views it as a natural trade-off and anticipates little opposition to using legislative contingency funds for the network. Nevertheless, a lot of organizational work still needs to be done before the arrangement becomes permanent. Among the issues the Assembly task force must deal with are restrictions on camera angles to avoid editorial bias, what constitutes permissible use of footage, and the hiring of production staff.

As was the case at the federal level with C-SPAN, the

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Senate is moving more slowly than the lower house in approving telecasts of its proceedings. Democratic Senator Herschel Rosenthal of Los Angeles heads up the Senate's television task force. He says that while most of his colleagues support the idea of coverage, they are waiting to start a pilot "until we get some kind of definite commitment" from cable systems regarding the availability of channel space

Part of the legislators' cautious approach to the Cal-SPAN concept can be explained by the fact that it is not something they can simply pull the plug on if they don't like it. Once people get used to the coverage, the reasoning goes, any reduction in service will arouse suspicion as to the politicians' true motives. Massachusetts, one of the pioneering states in gavel-to-gavel coverage, provides an instructive example. As Governor Michael Dukakis' economic miracle has drowned in a sea of red ink, funding for legislative television has been cut by nearly 10 percent. But, notes Terry Quinn, assistant director of WGBH-Boston's state house coverage, "it's now scaled as far back as it can go. The media relies heavily on our coverage, and [further budget cuts] would be seen by them as a cover-up. It would be using money as an excuse for not being seen by the public."

Just how much the California media would rely on legislative TV coverage is a matter of dispute. Most observers agree that print reporters based in the Capitol would benefit from not having to attend floor sessions and meetings in person. "I don' know if the press could do their job without it," says Jennie Baglien, who manages Oregon Legislative Media Services' coverage of the Legislature in Salem. "They're able to be in several places at once."

But TV news directors, whose alleged indifference to the Capitol inspired the idea of Cal-SPAN in the first place, are more skeptical. Al Goldstein of NBC affiliate KRON in San Francisco, which closed the last out-of-town news bureau in Sacramento two years ago, welcomes the state network as "a good public service." But he doubts that it would lead to more public demand for Capitol news, which he says most viewers find uninteresting. "Look at the governor," says Goldstein. "You can hardly ever find Deukmejian, and when he's there, frankly, he's boring. You're not going to put a bureau in Sacramento just to cover a Deukmejian administration."

While regular broadcasts of the Legislature would spare news departments like his the trouble of getting pictures for Capitol stories, Goldstein is wary about becoming too dependent on the Cal-SPAN feed. "I'm afraid it would be a trap. It's available to you, so you feel you've got to use it. The stories we'd want to do require getting behind the scenes and doing some reporting. Just watching the machinations of the Legislature doesn't give you the full picture."

News Director Jim Holtzman of CBS affiliate KFMB in San Diego, which pulled out of Sacramento in the late 1970s, is more blunt about Cal-SPAN's prospects: "It won't last long. I just don't see there being enough interest, and I think they'll have a hard time justifying the expense." Holtzman adds that he cannot foresee ever needing a live feed from the Legislature to do a story.

Westen dismisses the notion that Cal-SPAN needs to be hugely popular in order to succeed. The apathy of mainstream television, which is more concerned with ratings than performing a public service, he says, is an argument for establishing Cal-SPAN, not against it. "Of course, it's not going to be 'The Cosby Show.' A lot of people don't watch the news, either. But that's no excuse for not broadcasting it."

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WASHINGTON PERSPECTIVE

By LARRY LIEBERT

Big Green and the feds

Around the end of September a high-level agency of the Bush administration will offer what is supposed to be an authoritative appraisal of "Big Green," the sweeping environmental measure on California's November ballot.

BUT THE REPORT WILL NOT COME FROM the Environmental Protection Agency, the logical source of such an assessment, nor from the Department of Agriculture, which could evaluate Big Green's controls on farm pesticides. Nor from the Department of the Interior, which could take a look at its provisions on forestry and offshore drilling.

The implausible source of the federal report on Big Green will be the United States International Trade Commission. The presidentially-appointed panel, which normally evaluates the world commerce in commodities such as computer chips and textiles, was dragged into the middle of the California ballot campaign by U.S. Trade Representative Carla Hills.

Hills wrote the commission a letter asking it to probe "the probable international trade effects" of Big Green's pesticide controls. She argued that stringent new controls in California could conflict with President Bush's efforts to remove international barriers to agricultural trade.

"Since the international harmonization of health and safety standards for food and agriculture products is a major component of the U.S. proposal on agriculture in the current Uruguay Round of mulitateral trade negotiations," Hills wrote, "adoption of the initiative could significantly affect any new U.S. agricultural trade obligations arising out of the on-going GATT negotiations."

The trade commission will not issue a final report until the end of the year. But Hills, specifically noting the California election in November, ordered an interim report by September 30th.

In theory, the trade commission could come to the conclusion that Big Green would have only a minimal effect on world trade — or even that its tough provisions would set a fine example. But don't count on it. Those on both sides of the fiercely fought measure assumed from the start that the panel's study would reach exactly the anti-Big Green conclusions that Hills suggested in requesting it.

When the trade commission convened a hearing on the issue in its sleek, modern headquarters in July, agribusiness was delighted.

Big Green "would jeopardize international economic trade" and "invite our trading partners to erect retaliatory barriers," testified Paul Drazek of the American Farm Bureau Federation. Like other opponents of the initiative, he described it as "the Hayden initiative" — a derisive reference to the radical roots of one of its sponsors, Assemblyman Tom Hayden, a Santa Monica Democrat.

On the other hand, proponents of Big Green approached the commission with more outrage than deference. Craig Merrilees, a leading spokesman for the initiative, accused Hills of doing "political dirty work" in ordering the study. Merrilees said he believed that Agriculture Secretary Clayton Yeutter talked Hills into the idea. The two officials, he said, "have decided to become partisan participants in a California statewide political campaign."

David Rohr, a trade commission member, responded that the six-member commission is "independent, impartial and bipartisan-nonpartisan." By law, it must be evenly divided between Republicans and Democrats.

Don Newquist, another commission member, said, "The people of California have a constitutional right to do what they damn well please." But he suggested that Congress might have to intervene to block Big Green if its provisions created "genuine conflict."

Like the average California voter, the trade commission endured conflicting claims from scholars working for or against Big Green. With equal gravity, the dueling academics spewed out utterly irreconcilable statistics concerning the costs and benefits of complying with it.

The commission also heard down-to-earth opinions about the vices and virtues of splotchy fruit.

Fred LoBue, chairman of the California-Arizona Citrus League, told the commission that only pesticides can produce the unblemished fruit that consumers consider a sign of quality. He said people around the world demand "a table setting of pretty fruit."

But Al Courchesne, who farms 33 acres in Contra Costa County, complained that state marketing rules in California ban him from selling organic nectarines with the slightest blemishes. He told reporters that such marks on pesticide-free produce are "like freckles on the face of a beautiful woman."

Political notebook: Democratic Congresswoman Nancy Pelosi of San Francisco was big on national talk shows this summer as a Catholic politician who is vocally "pro-choice" at a time when some archbishops are threatening to excommunicate such wayward Catholics. "Wouldn't it be ironic," Pelosi mused after one such appearance, "if a person was excommunicated for being on *Nightline*?"

REPRESENTATIVE PETE STARK, an Oakland Democrat, has always used scathing sarcasm to criticize those with whom he disagreed. In that sense, at least, it was not surprising when Stark went over the edge and called Health and Human Services Secretary Louis Sullivan "a disgrace to his race." The proud Stark offered a half-hearted apology, but Sullivan pounced on the "racist declaration" as typical of white liberals.

- Clarifying an item in this space, Democratic Congressman Howard Berman of Los Angeles wants the record to show that he endorsed Dianne Feinstein for governor shortly before the June primary. Berman's usual political partner, Los Angeles Democrat Henry Waxman, did stay out of the primary battle between Feinstein and John Van de Kamp.

Larry Liebert is Washington bureau chief of the San Francisco Chronicle.

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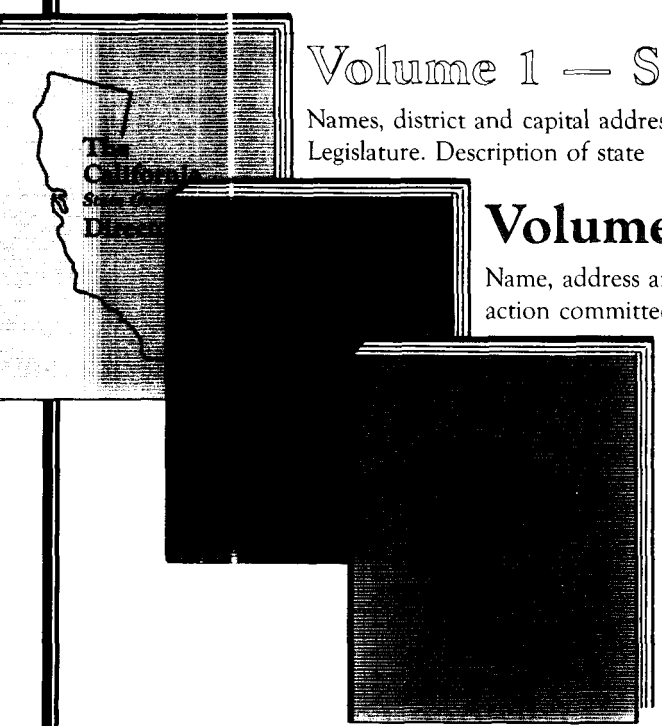

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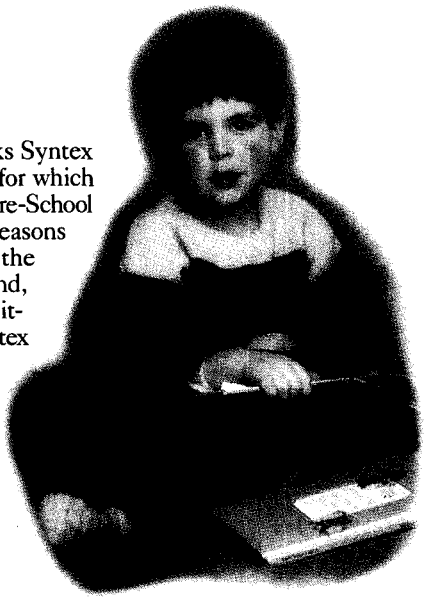

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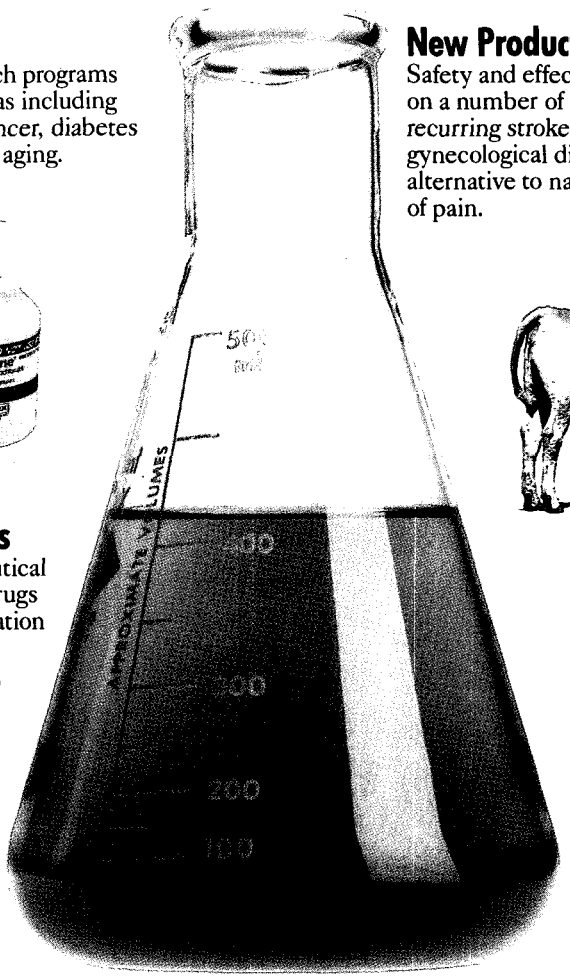

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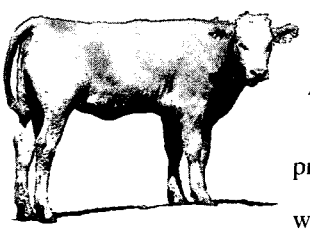

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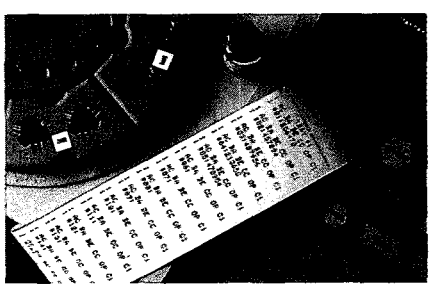

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